

NORTH OGDEN CITY COUNCIL MINUTES

June 11, 2013

The North Ogden City Council convened in an open meeting on June 11, 2013 at 6:31 p.m. in the North Ogden City Council Chambers at 505 East 2600 North. Notice of time, place and agenda of the meeting was delivered to each member of the City Council, posted on the bulletin board at the municipal office and posted to the Utah State Website on June 7, 2013. Notice of the annual meeting schedule was published in the Standard-Examiner on January 30, 2013.

PRESENT:	Richard G. Harris	Mayor
	Kent Bailey	Council Member
	Wade Bigler	Council Member
	Justin Fawson	Council Member
	Cheryl Stoker	Council Member
	Brent Taylor	Council Member
STAFF PRESENT:	Bryan Steele	Finance Director
	John Call	City Attorney
	S. Annette Spendlove	City Recorder / HR Director
	Craig Barker	Community Development Director
	Gary Kerr	Building Official
VISITORS:	George Nichols	Gwynne Nichols
	Jolyon Walker	Mrs. Walker
	Andrew Moore	Hannah Moore
	Mark Moore	Scott Critchlow
	Cy Denney	Kade Nielsen
	Reese Barker	Blake Bodse
	Cory Richins	Phillip Swanson
	Michael Carter	Allan Dalpiaz
	Trudy Freeman	Rick Freeman
	Charles Crippen	Terry Bexell
	Norman Schmehl	Loren Baguley
	Joan Brown	Matt Baguley
	Tom Baguley	William Asay
	Paul Hancock	Lynnette Hancock
	Susan Walters	Jim Urry
	Chris Stegen	Michelle Meyer
	Matt Hartvigsen	Adam Budge
	Jerry Shaw	Mark Pontius
	Lisa Dean	Darin Dean
	Gary Hoopes	Janice Schramm
	Carson Jones	Troy Erickson
	Rachel Trotter	Cydnee Jones
	Ryan Jones	Melanie Call
	Mckenzie Call	

Council Member Bailey welcomed those in attendance, offered the invocation and led the audience in the Pledge of Allegiance.

CONSENT AGENDA

1. CONSIDERATION TO APPROVE THE MINUTES OF THE MAY 14, 2013 CITY COUNCIL MEETING

Mayor Harris asked that City Recorder Spendlove note corrections to the minutes for the record.

Ms. Spendlove stated page one states the meeting started at 6:30 p.m., but it actually started at 6:34 p.m. She stated Council Member Bigler was present at the meeting, but the minutes state that he was not present. She stated page six, line 285, the heading should say “Weber County Cities”. She stated page 17, line 853, should read “Council Member Bigler stated a temporary solution for the water issues should not be the responsibility of the City”. She stated voting on the motion to adjourn did not include Council Member Bigler, but he was present for the vote and his name will be added to the minutes.

Council Member Stoker moved to approve the consent agenda with corrections to the minutes as noted by Ms. Spendlove. Council Member Bigler seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Bigler	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

ACTIVE AGENDA

1. PUBLIC COMMENTS:

Mike Carter, 304 W. 1825 N., stated he wanted to introduce himself as the new manager of the Zion’s Bank financial center located on Washington Boulevard. He stated he is proud to be a new member of the North Ogden community and he looks forward to supporting the City and helping new businesses relocate to the area. He stated he also wants to help existing businesses be competitive by providing services that will help them generate more revenue; taxes associated with that revenue will also benefit the City and its residents. He stated he is proud to have the opportunity to represent Zion’s Bank as this year’s sponsor of the Cherry Days Grand Marshall dinner and he invited everyone to visit him to see what he can do for them or for their business. Mayor Harris thanked Mr. Carter for attending this evening and he welcomed him to the City. He added that former Police Chief, Polo Afuvai, will be the Grand Marshall this year.

Jolyon Walker, 3603 N. King Hill Drive, stated he enlisted in the Air Force in 1972 as an airman and he retired as a Colonel in 2010; he displayed a legion of merit that he received and he explained it is the sixth highest award given by the Department of Defense. He stated he is credited with over twenty years of civil service and he retired as a GS14; he and his wife have eight children and nineteen grandchildren. He stated he thinks his children are responsible citizens and he hopes his grandchildren can grow up in a free country. He stated that according to articles in the newspaper and on the internet, he is an old man with too much time. He stated he regrets to say that both charges are true: he is old and he does have a lot of time – time enough to spend hundreds and hundreds of hours in the nine years he has lived in North Ogden shoveling, blowing snow, and plowing snow for widows, single mothers, families with severely disabled children, and families with military members deployed to exotic locations like Iraq and Afghanistan. He provided the Council with a list of 60 names that have been unwitting victims of his excessive time. He stated that when he had a job he woke at 5:00 a.m. every time it snowed and cleared the driveway for Evelyn Watts after her husband passed away, for Pat McCreary after her husband died, for the Heniger family when Ms. Heniger had surgery and when their snow plow was being repaired, and last February during a particular snow storm he spent over six and one half hours clearing snow from the sidewalks and driveways for people on the list of names that he provided and four and one half hours at a local LDS chapel. He stated he has volunteered to clean the properties of widows and single mothers each fall; he has tilled the garden for a man who broke his foot; he has replaced lights, fixed shed doors, removed stumps, weather proofed a sliding door, spent days at the local cherry and peach order, manned a table at the recent blood drive, and spent dozens of hours and many donated materials building the structure and revolving sun for the 2011 Cherry Days children’s choice award float. He stated he obviously has too much time and, according to the internet, he needs to spend it more wisely. He stated a recent comment on the Standard.net comment section regarding the article about a garage business in North Ogden was titled ‘busy-bodied old farts’ and he joined the ranks of the adulterous. He stated the comments indicate that none of what he has claimed has ever happened and he is a liar, plain and simple. He stated his career as a liar began on April 26, 2013 when he submitted an article to the Planning Commission as requested by Community Development Director Barker. He stated he did not know he was a liar until the first of May when the Planning Commission decided that because letters did not have times and dates on them they were not evidence and could not be true. He stated he is a liar because he had not dated the observations that he saw and heard over the course of the last several years and, thus, the permit violations never happened; because of the Planning Commission’s decision, not only is he a liar, but everyone that responded to the City with their complaints about the business is a liar. He stated his biggest lie happened at about 2:10 p.m. on May 7, 2013; he did not see Mr. Baguley’s garage door open, he did not hear him working on something in his garage, he did not smell solvent some distance away from the premises. He stated he did not hear, see, or smell anything because Mr. Baguley always keeps his garage door closed when working on all items and at all times. He stated his observations were declared false by City Manager Chandler and Building Official Gary Kerr six days later and documented as such in a reply to him. He reiterated Mr. Baguley has never worked with his garage door open and he said so in the City Council on May 28, 2013; because Mr. Baguley has insulated his garage and installed a ventilation system, none of what Mr. Baguley’s immediate neighbors see, hear, or smell can possibly be happening as was repeatedly stressed by Mr. Chandler in another letter to him. He stated that, therefore, all of Mr. Baguley’s immediate neighbors are liars.

Mayor Harris asked Mr. Walker to summarize his comments and to refrain from making personal attacks.

Mr. Walker stated the gist of what he is saying is that following the Planning Commission's advice he sat and watched Mr. Baguley and because what he saw did not happen then the rest of the events of that day also did not happen; the police never came, he was not called a liar, he was not called a fool or called to repentance. He stated he now understands fully how futile his efforts have been in trying to help a friend bring attention to a violation of his property rights to live peacefully in his own home. He stated he also now fully understands one cannot fight City Hall. He stated he has come to the absolute, undeniable conclusion that the only truly honest people in the entire City of North Ogden are Tom and Loren Baguley. He stated the week of July 4, 2013 he will shut his door and drive away from North Ogden; to make sure that happens he is following the example of the junior senator from Utah and allowing a short sale of his property. He stated that so far he has lost \$60,000 and expects to lose more; that week he will declare his independence.

Mayor Harris asked Mr. Walker for a copy of his written statement for the record.

Terry Bexell, 3432 N. 875 E., stated he is here this evening representing a dozen people that, like himself, would like to see an item added to a future agenda to consider allowing all-terrain vehicles (ATV) that are considered street legal to be driven on North Ogden City streets. He stated there has been a lot happen since this issue was initially addressed over a year ago. He stated Pleasant View and the neighboring city in the Ogden valley has permitted ATV use on city streets. He stated he would like North Ogden to look into it as well.

Mayor Harris stated the City will look into Mr. Bexell's request.

2. DISCUSSION AND/OR ACTION TO CONSIDER PAYMENT FOR STORM WATER DETENTION IN WADMAN PARK DETENTION BASIN.

A memo from City Manager Chandler explained Hall Tree subdivision phase XIV received preliminary site plan approval from the Planning Commission and the storm drain plan includes a detention pond on lot six of a future phase. The detention basin would be built with phase XIV construction. Originally, it was thought that this detention basin would be a regional basin that would service multiple phases of the Hall Tree subdivision. Because of the topography, City Engineer Matt Hartvigsen and the developer have reconsidered using this area as a regional basin. The developer has proposed that he be allowed to pipe the storm water from this development to Wadman Park which has storage capacity. When this option was discussed Mr. Hartvigsen raised the issue that the detention basin was already built and paid for and that the developer should pay for the capacity they will use. The developer agreed to this. This item is being brought to the Council in as much as this practice is new to the City and there is a question as to how much the developer should pay. The following calculations were provided by Mr. Hartvigsen:

The Hall Tree development will require 1.1 acre-feet of storage. The Wadman Basin has a capacity of 10.9 acre-feet so the Hall Tree developers would purchase 10% of the capacity of the Wadman Basin.

Basin Property = \$5,052.00

Basin Grading and Storm Drain Piping = \$286,858.31

Basin Landscaping = \$241,103.75

Total Cost \$533,014.06

10% participation cost = \$53,301.41

If the landscaping cost was removed from this calculation the total cost would be \$291,910.31 and the 10% participation cost = \$29,191.04.

Mr. Hartvigsen approached the Council and summarized Mr. Chandler's memo. He noted one of the problems with the location of the proposed basin is that there is no outfall line because the storm drain piping cannot cross the canal; therefore, the developer will be required to build an outfall line from 2850 North to 2750 North and connect that line to the existing pipe. He noted one of the things staff discovered as they were reviewing the storm drain facility and issues in this area is that there is excess capacity in the Wadman Soccer Park; when the park was constructed there was excess capacity built into it for convenience more than anything. He stated it ended up being larger than originally designed and due to that fact and the excess capacity the developer of Hall Tree phase XIV is asking to buy into the excess capacity in lieu of building his own facility in the gravel pit. He stated staff has reviewed the cost to construct the detention basin facilities at Wadman Park and they prorated those costs and determined the portion that Hall Tree would need to build on their own site. He stated the City has never done this before so the staff did research to determine the actual costs to construct and landscape the basin at Wadman Park. He stated staff feels that if the developer of the Hall Tree subdivision wants to buy into the excess capacity at the Wadman Park basin, he would need to pay his prorated share of the actual costs paid by the City. He stated the developer would essentially be using ten percent of the capacity of the basin and the cost for use of that amount of capacity would be \$53,301.41. He stated he and Mr. Chandler have discussed several options with the developer and they determined that in lieu of building their own detention basin facility, the developer can purchase the same storage capacity from the Wadman Park basin. He stated one issue that was raised is that not every basin is required to be landscaped and oftentimes developers are allowed to construct a basin and cover it with rock or leave it in a natural state and mow the weeds on a regular basis. He stated the developer has requested that the City consider not charging him ten percent of the landscaping costs for the Wadman Park basin; if the landscape costs were eliminated, at the Council's discretion, the cost would be reduced from \$53,000 to \$29,191.04. He stated this cost breakdown was included in the Council packet.

Council Member Fawson asked what this agreement would reduce the capacity at Wadman Park to. Mr. Hartvigsen stated that even if this agreement is executed and the developer is allowed to utilize some capacity at Wadman Park, there will still be excess capacity, but he does not have the exact number for the Council. He stated the original calculations for Wadman Park indicated the City needed 9.5 acre feet of storage, but when construction of the basin was completed the City ended up with 10.9 acre feet storage. He stated dedicating 1.1 acre feet of storage to the Hall Tree subdivision will still leave the City with 9.8 acre feet of storage, which is still in excess of the designed 9.5 acre feet of storage.

Council Member Bigler asked if that storage capacity meets the needs of the City now or in the future. Mr. Hartvigsen stated it will meet the City's needs at projected build-out. He stated the City has a master plan that shows regional basins at various locations throughout the City; there will be other regional basins built above this basin based on the master plan, but the Wadman Park basin was designed to meet the City's needs at build-out.

Council Member Bailey asked if the City has need for another regional basin in that area. Mr. Hartvigsen stated he would recommend construction of additional regional basins like this one above this basin and there is a need to do that in the future according to the storm drain master plan. Council Member Bailey stated the plan was for the City to partner with the developer of the Hall Tree subdivision to address the storm drain retention need in the area. Mr. Hartvigsen stated there will still be a need for a regional basin in the area of the Hall Tree subdivision; the location in the old gravel pit in the Hall Tree subdivision cannot be used because of the steepness of the slopes and the

shallowness of the storm drain system so it will be necessary to determine another location. He stated the developer of Hall Tree has some control over the balance of the property from the hillside on the east of the development all the way to the property that has already been developed and the City has discussed with him the need to continue to work to determine an appropriate location for a regional basin in that area; that will be part of the future storm drain plan. Council Member Bailey referenced the calculation of the cost that will be paid by the developer and he asked why the City is willing to negotiate a price based on the actual cost to develop the detention basin rather than fair market value for the property on which the basin is located. Mr. Hartvigsen stated that is originally what the staff considered and most of the calculations he works on are based on actual expenses incurred by the City; for example, if the City receives a grant to build something, the City cannot recoup costs that have never been incurred. He stated the City would be making a profit by basing the calculations on fair market value of the property. City Attorney Call added this transaction is very similar to impact fee infrastructure transactions; the impact fee act says the City can only charge what it costs to provide service and those services cannot be 'marked up'. He noted that impact fee calculations can take into consideration bond and financing costs, but in this case the City cannot charge what the property is worth now and, instead, the City can only charge what was paid for the property.

Council Member Fawson asked if the calculations take into consideration potential replacement costs for the basin. He stated there is the potential for the City to need to build additional basins in the future as the City continues to grow and the City will pay for property for those basins. Mr. Call stated that basin would be built to serve the future users, which means the new residents will pay more money when they purchase their property in the future.

Council Member Bigler asked if the detention basin that is being discussed tonight could be considered needed for future residents as well. He stated the challenge he sees is that the City received grants and donations for a public park and not for private developer use, but staff is saying that because the property was donated the private developer cannot be charged for it. Mr. Call stated the trouble is that when something is given to the City it is not considered as given only for the current residents, but for the future residents as well. He stated this is something of a sticky process especially since this is a dual service facility in that it serves as a park and a storm water detention basin. Council Member Bigler asked if the developer will help maintain the park. Mr. Hartvigsen stated it will still be the City's responsibility to maintain the park. He stated the developer is not required to accept this option and if they choose to build the basin on their own property in the old gravel pit, that would become a facility owned by the City and the City would maintain it as well. He stated oftentimes the City fences detention basins so that maintenance is minimal, but other times the basin is landscaped and a play structure is placed in it to provide a small park area that can be used by the local neighborhood. He stated the City normally maintains all detention basins in the City. Council Member Bigler noted that is the case if the basin is developed. Mr. Hartvigsen stated even if the basin is left in its natural state the City is still required to maintain it, though the costs would be minimal.

Council Member Bailey asked if there are any potential alternative uses for the surplus capacity at the basin. Mr. Hartvigsen answered the only other options are to sell it to someone else; the excess capacity is available because of the state of the ground when the City decided to build the park. He stated there was no reason to build the basin smaller and it would have cost the City more money to construct the basin as it was designed. He stated it acts as a buffer in case the City experiences an unusually bad storm that exceeds the capacity of the basin. Council Member Bailey asked if this is in the best interest of North Ogden City; he can see how the proposal would help the developer of the

project, but he wondered if it is in the best interest of the City as well. Mr. Hartvigsen stated he does not know the answer to that question. He stated that the City could potentially have two locations to maintain rather than one if the developer were required to build his own basin, but it would be nice to have another neighborhood park if the developer could be convinced to landscape and locate a play structure on the basin in his development.

Council Member Bigler stated Mr. Hartvigsen stated previously that the developer would be required to build a basin regardless of the decision on this issue. Mr. Hartvigsen stated the developer is required to provide a means for detention of the storm water generated by their development; their options are to either construct their own basin or buy into the City's capacity. He stated there are potentially more costs the developer will incur than have been provided in the breakdown included in the Council packet because if the developer decides to buy into the City's capacity at Wadman Park they will need to increase the size of the pipe along 2750 North so that the higher flow rates can be carried to the Park. He stated that will actually help the City because it is necessary to expand and extend the storm drain detention system up 2750 North all the way to the mouth of the canyon. Council Member Bigler stated he is concerned about the long term; the Council's job is to look after the entire City and he would not want to find out in a few years that the City would be required to pay for additional capacity because this proposal was approved. He stated Council Member Bailey asked if this project is beneficial for the City and the answer was that staff was not sure and that worries him. He wondered if it would be best to step back and do more 'home work' regarding the project so that the Council can feel more comfortable about it. Mr. Hartvigsen stated the reason he agrees to this project is that he is comfortable with it. He stated he is not saying the City should do it, but, rather, that it is an option for the City. He stated it is not his decision to make, but he is comfortable with what has been proposed. He stated he has reviewed the developer's storm drain calculations and if they construct a basin on their own property the storm drain master plan will stay the same and the City will still have the same costs in the future. He stated he does not anticipate changes to the future plan other than possibly relocating the future regional basin from the gravel pit to an area that is closer to the mouth of the canyon.

Council Member Taylor asked if the City has ever dealt with this kind of transaction in the past. Mr. Hartvigsen stated he is not aware of this kind of transaction taking place in the City in the past. He added this is an unusual situation and that is because cities do not typically build excess capacity into their detention basins because that would be a waste of money and hard to justify. He reiterated that in this case it was less expensive to build the excess capacity into the basin because of the way the area was already graded.

Council Member Bailey asked if there is a staff recommendation regarding this item. Mr. Hartvigsen stated Mr. Chandler never revealed his opinion regarding the project. Mayor Harris added he does not believe Mr. Chandler has an opinion; instead he was presenting the options to the Council for their consideration. He stated the question is whether the Council wants to allow the developer access to the excess capacity at the basin and what should be charged for that access. He stated there is some rationale behind the claim that the landscaping is landscaping for a public park and not a detention basin and he wondered if the developer should be required to pay a portion of those landscaping costs when all he needs is the storm water detention aspect.

Council Member Fawson stated it seems to him that almost everything that is being proposed turns out to be in the City's best interest; the savings on the maintenance of an additional basin along with the fact that there is excess capacity at the basin that will be paid for by the developer are benefits. He stated his only concern is the amount of excess capacity that will be taken and what risk the City

will be running due to that fact. He added, however, that he thinks that risk is mitigated by the fact that an additional basin will be built in the neighborhood at some point in time. He stated his only remaining concern is that the developer could decide to build a 'cheap' basin in his development because there is already storm water detention at Wadman Park; that would result in the residents of his development not getting the park they may have been hoping to get in the detention basin. He stated he would love to add some kind of requirement that the developer build those types of facilities or something small for the neighborhood.

Council Member Bigler asked the developer if he would like to say something.

Carson Jones stated he is the developer of the property and he explained that he did come up with an option for storm water detention on a piece of property that he owns, but through discussions with the City the option of utilizing capacity at Wadman Park was put on the table. He stated as he found out that he would be required to increase the size of piping in the area and he pointed out that he has already used oversized pipe in phases 10, 13, and 14 to handle a larger amount of water; the requirement is to use 18 inch pipe for storm drain and he has used 24 inch pipe in a large section of his development without much participation from the City. He stated all the upsized piping will be installed in phase 14 at his cost with no payback assistance from the City. He stated there is one small detention basin in phase 12 of Hall Tree and it is a 'pain in the neck'; he has wound up with one little detention basin per phase and those areas can become unsightly and the City does not want to maintain them so he ends up maintaining them. He stated his concern is that the Hall Tree subdivision will eventually build out – there are 160 more building lots to be sold – and the little localized basins will no longer be maintained once he is finished developing the subdivision. He stated he does not want to get into that problem. He stated he has an early design for phases 17, 18, and 19 and rather than building the small basins in each phase he would like to build a big basin so that will meet regional needs in the area; it would be in his best interest as well as the City's best interest. He stated he has already placed \$20,000 in escrow with the City for the detention basin that has been in existence for years in hopes that the regional basin will work. He stated that when he worked through calculations and examined the topography of the area and determined the plan would not work it was time to explore other options and that is why he is here today to discuss the issue with the Council. He stated that he still wants to see a nice basin in the subdivision in the future that will attract people to live there. He stated it is in his and the City's best interest to make the area nice.

Council Member Bigler asked how many phases of the subdivision are left. Mr. Jones stated there are 14 or 15 phases left to be constructed. Council Member Bigler asked if there will be a big detention basin for the 160 building lots left to be developed. Mr. Jones answered yes; he plans to meet with his engineer and with Mr. Hartvigsen to determine where a larger basin should be located.

Council Member Taylor asked how many phases the capacity at Wadman Park would service. Mr. Jones stated it would take care of everything new located west of Mountain Road. Council Member Taylor asked how many of the smaller basins the option at Wadman Park would eliminate. Mr. Jones stated it will replace at least two smaller basins that would have been located in individual phases of the development.

Council Member Bigler stated it seems more efficient to build one larger detention basin rather than several small basins. Mr. Jones agreed and stated that is what he would like to do going forward with the development.

Council Member Taylor asked Mayor Harris how often the City maintains detention basins throughout the City. Mayor Harris stated the basins are comparable to park strips and streets in that once a development is completed the streets, park strips, detention basins, and other types of public facilities are turned over to the City and the City maintains them from that point on. Council Member Taylor stated he is trying to get an idea of the maintenance the City would be saved from doing if the proposal to allow the developer to access capacity at Wadman Park is approved. He asked how often the City mows the basins. Mayor Harris stated that is dependent on the kind of vegetation living in a basin, but Wadman Park is mowed every week. He stated there is a detention basin at the corner of Fruitland Drive and Barker Way that is maintained by the City and it is well kept. He stated another basin located on 800 East and 3300 North is a natural basin and the City hardly does any maintenance there.

Mr. Jones stated the reason he was required to maintain the basin located in phase 12 is that he took one building lot in that phase and dug it out for a basin with the thought process that as soon as the regional basin is built he will get that lot back; therefore it is still in his name and it was never deeded to the City. He stated there is a detention basin just west of Weber High School that his dad did the same thing with and he has never received it back from the City.

Council Member Taylor stated he was simply trying to understand if there is the potential for savings on maintenance costs if there are less of the smaller basins for the City to maintain; if there is the capacity available at Wadman that prevents the developer from being required to build two smaller basins, that will benefit the City. He stated he has one additional question for Mr. Hartvigsen; he asked what type of storm the storm water detention figures in the master plan are based on. Mr. Hartvigsen stated the regional basin at Wadman Park is designed to handle a 100 year storm. He stated localized smaller basins are typically designed to handle a 10 year storm. He stated both types of basins are used in conjunction; smaller basins are scattered throughout developments and when the piping for those basins cannot handle a larger storm, the water can be routed to the larger regional basins. Council Member Taylor asked if it is correct that the determination that there is excess capacity is already based on a projection of a 100 year storm. Mr. Hartvigsen answered yes. Council Member Taylor stated there is an extremely good likelihood that there truly is excess capacity. Mr. Hartvigsen stated that is correct and the City has also tightened up some of the allowances relative to discharge of un-detained water in order to compensate for the increased frequency of heavy storms.

Council Member Bigler asked Mr. Hartvigsen if, in his professional opinion, it is correct that there is not a risk to allowing the private developer to use the capacity at Wadman Park now or in the future. Mr. Hartvigsen stated he would not say that; there is always a risk even with basins designed to handle a 100 year storm. He stated storms can have a higher precipitation rate than has been anticipated, but it is necessary to draw a line and design for something reasonable, like a 100 year storm. Council Member Bigler asked if the developer will be required to build at least one more regional basin or a couple of smaller ones in the area. Mr. Hartvigsen stated it is nice to have a cushion; right now the City has a twelve percent cushion in that area. Council Member Bigler stated he is trying to understand what the City has to gain; if the developer has to provide storm water detention regardless, he wonders why the City should not require them to build a big basin that will take care of multiple phases and allow Wadman Park to remain as it is. He stated that not all detention basins are used as park space and he is trying to understand the risk to the residents; he does not want to come back in five or ten years and hear that the City made a bad mistake by allowing this to happen. Mr. Hartvigsen stated he cannot guarantee that there will never be a flood in the area.

Mayor Harris stated that if the City gets high intensity summer thunderstorms and Wadman Park floods, there will be floods everywhere. He stated any basin in the City will fill up and spill if there is a storm that the City cannot plan for. He stated there is no way to say there is no risk; Council Member Bigler asked if this action would increase the risk to the residents and he explained that the action may increase the risk of filling the basin, but if this basin is not filled another basin will be filled by the storm water generated by this development. Council Member Bigler stated “two cups hold more than one”. He stated both basins may fill up, but there would be more capacity. Mayor Harris stated the City would not design for any more than the required capacity. Mr. Hartvigsen stated that is correct; it is complicated because the City currently has a storage capacity buffer at the basin.

Council Member Taylor stated Mr. Hartvigsen noted the City has 112 percent of the required capacity at the basin and he asked again what capacity would be left at the basin if the City were to allow the developer access to it. Mr. Hartvigsen stated the basin was designed with the ability to hold 9.5 acre feet of storm water, but the actual capacity of the basin ended up being 10.9 acre feet; that is based on the storm potentials applied to every development. He stated there is eleven or twelve percent of excess capacity at the basin that theoretically could be used for another development and the City could recover the money spent on the basin to be used elsewhere.

Council Member Bailey inquired as to what the developer would actually be purchasing from the City and what would be conveyed to him. Mr. Hartvigsen stated he would need to work with the developer to make sure the development follows the regional storm drain plan; they would need to pay the City the amount of money determined by the City. Council Member Bailey asked what the City would be selling to the developer. Mr. Hartvigsen stated the City would be selling storm drain detention capacity. Council Member Bailey asked if the City can sell capacity. Mr. Call answered yes and stated essentially the developer would be ‘buying’ Mr. Hartvigsen’s signature of approval for a certain number of lots in his development because the storm water associated with those lots would have some place to go. He stated the City typically requires the storm water to be self-contained in the subdivision, but in this case the City would allow the water to be routed to another area. Council Member Bailey likened it to wetland mitigation. Mr. Call stated that it is similar to approving a certain number of houses based on sufficient pressure in a water line. Council Member Bailey asked if the staff has a recommendation as to whether the Council should approve the request. Mr. Call stated this is a policy issue; it is something the City has not done in the past and staff felt the Council should determine whether to recover money spent on the detention basin or simply allow the excess capacity to remain.

Council Member Bigler asked Mayor Harris if it would be ok to table this issue and allow the Council to think about it and ask further questions. He stated he knows the staff are professionals, but he is not comfortable approving the request at this time. He stated he does not want to vote yes before he is comfortable. Mayor Harris stated Council Member Bigler has the ability to make a motion to that affect.

Council Member Fawson stated that as the Council talks about risk they are essentially talking about excess capacity that was only built because of the size of the basin already. He stated he does not see that this action would increase the risk since the basin would have been built smaller if it had been built according to the design. He stated he does not see a problem with moving ahead from a risk standpoint. He stated the Council simply needs to make the decision whether to sell the capacity to a developer. He stated he feels the City should sell the capacity and then give the money back to the residents.

Council Member Taylor stated he agrees with Council Member Fawson; there is excess capacity available and selling the capacity could provide some savings for the residents. He stated he does feel that if the Council decides to sell the capacity, the developer should be charged the amount including landscaping costs; that was the cost to the taxpayers to construct the park. He stated the developer is getting a good deal based on the fact that most of the land was donated so charging the amount including landscaping costs is more fair to the residents. He stated the developer may determine not to move forward based on the higher sales price. He added that he would also be comfortable tabling the issue for two weeks if other Council Members need additional time to research the issue or ask questions.

Council Member Bigler made a motion to table consideration of payment for storm water detention in Wadman Park detention basin for two weeks if that is a sufficient amount of time for staff to answer additional questions from the Council.

Council Member Bigler stated one additional question he has is why the City is allowing the developer to construct small basins in each phase of his development that will be difficult to maintain after the development is complete. He stated that does not make sense to him and maybe the City should add specifications for those types of facilities because they are ultimately turned over to the City and the City is responsible for their upkeep. He stated he would like to see more regional basins instead of smaller basins.

Council Member Taylor seconded the motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

3. DISCUSSION AND/OR ACTION TO INSTALL A STREET LIGHT AT APPROXIMATELY 2255 N. 575 E.

A staff memo from Building Official Kerr explained Mr. George Nichols representing Legacy North Homeowner Association is requesting a streetlight be added at about 2255 North 575 East which is located mid-block of the street. The developer would pay for the installation of the streetlight but they want the City to pay for the monthly electrical bill, which would be \$2.50. The existing streetlights in the area meet current city standard which is that streetlights should be installed at intersections and every 600 feet. The distance between existing streetlights in this area is approximately 400 linear feet.

Mr. Kerr approached the Council and summarized his staff memo. He added that the two street lights located at the intersections of 575 East and 2300 North and 600 East and 2250 North are wooden street lights that do not match the street lights throughout the development; the developer has requested a street light that matches the other street lights in the development.

Mr. Nichols, 2255 North 575 East, stated he would like to provide more information for the Council's consideration. He referenced a map of the area and explained the street lights that are currently in place are telephone pole types of street lights. He referenced the small area that is the last of the Legacy II subdivision to be developed and he explained many of the residents that purchased homes in that area presumed the ambiance of the development would include street lights similar to those currently existing in other areas of the development; they are a new type of street light. He stated he has done the math on this issue and in the Legacy subdivision there are approximately 105 residents and there will eventually be 109 because there are four undeveloped lots that will eventually contain homes. Based on the number of street lights currently in the development he understands the City's standard is to provide a street light roughly every 600 feet, but in doing the math there is a street light in the Legacy development approximately every 210 feet. He stated that the street light he is requesting has already been purchased by the developer and the conduit has been installed in the location in which the light would be installed. He stated the developer also plans to install the light upon receiving City Council approval. He noted the distance between the requested street light and the next closest street light is approximately 214 feet; the street light would be no closer to the two street lights that Mr. Kerr referenced than other existing street lights in the Legacy development. He stated Legacy II subdivision is a senior citizen residential area and the residents moved there because safety is one of their paramount concerns; there are 13 homes in the development and he purchased his lot assuming it would be developed the same way as the rest of the development. He noted one of the ladies living in Legacy II is wheelchair-bound and the light would be located between his residence and her residence. He noted she is picked up by the Utah Transit Authority (UTA) para-transit service in the morning and she arrives home at approximately 5:30 p.m. every evening. He stated that is no problem in the summer months because it is still light at that time, but in the winter it will be dark when she leaves for work and dark when she comes home. He stated this is another reason he feels it would be good to install the additional street light. He stated he needs the Council's approval in order for the developer to install the street light.

Council Member Bigler stated the 600 feet between street lights was not applied to the Legacy development and when the subdivision was accepted by the previous City Council the plans included locating street lights at certain distances from one another. He stated he feels this is a 'no brainer'; this is the next phase of the subdivision and the developer already has the light and is ready to install it in order for the area to match the existing development.

Council Member Bailey stated the Legacy development is a Planned Residential Use Development (PRUD) and generally in PRUDs there are certain things that are not undertaken by the City, such as snow removal, and he inquired as to the terms associated with this PRUD. Mayor Harris stated the City performs snow removal in the Legacy development because the streets are public streets. Council Member Bailey asked if the light poles are also located in the public right-of-way and owned by the City. Mayor Harris answered yes. Council Member Bigler added the developer is paying all costs associated with installing the light pole and the only thing the City would be paying for is the monthly electricity costs associated with the pole. Council Member Bigler reiterated installing the street light would allow Legacy II to match the existing Legacy development.

Council Member Fawson stated he would love to see more residents come forward and express a willingness to install a street light if the City is willing to pay the monthly electricity costs for the light. He stated he thinks this is fantastic and he is very supportive of it.

Council Member Taylor agreed with Council Member Fawson and noted that an option for increasing the number of street lights in the City was for residents to raise funds to pay for the street lights; this is a great action and he thanked Mr. Nichols for working through the issue with the developer.

Council Member Bigler moved to approve the installation of a street light at approximately 2255 North 575 East. Council Member Fawson seconded the motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

4. DISCUSSION AND/OR ACTION TO CONSIDER AN APPEAL OF THE PLANNING COMMISSIONS' DECISION TO CONTINUE A CONDITIONAL USE PERMIT FOR TOM'S AUTO REPAIR.

City Attorney Call explained for this agenda item the Council will be acting as the appeal board, or judges, for the purposes of this appeal hearing. He provided a brief history of this issue explaining the Planning Commission made a decision on May 1, 2013 and he read the motion to continue the conditional use permit (CUP) made during the meeting as follows: Commissioner Brown amended her motion by noting annual review of the conditional permit has been conducted and that the continuation of the conditional use permit should be allowed. He noted the Planning Commission approved the motion and that is the decision that was appealed by Mr. Crippen and several other neighbors and the City Council acts as the appeal authority for CUP appeals. He noted the original conditions imposed in the CUP are for the garage to be closed any time a car is being worked on in the garage; no more than two cars associated with the business can be stored on the property at one time – one can be in the garage and the other can be parked outside; the garage doors need to be insulated for sound proofing; an HVAC exhaust system shall be installed; no vehicles can block the sidewalk; and there shall be an annual review of the business for compliance with the conditions of the CUP. He stated he provided the Council and the parties of the appeal with a memo last week explaining that the decision being appealed was the decision made by the Planning Commission and the job of the Council acting as the appeal authority is to hear the evidence that is presented by both parties of the appeal as well as evidence in the documents they have been provided and then make a determination about whether the Planning Commission made the correct decision based on the evidence of whether the terms of the CUP had been violated.

Council Member Bigler stated Mr. Call mentioned in an email that after the Planning Commission made their decision any new evidence could be presented by the City Council for consideration. He stated he wanted to make it clear that did not seem fair to the Planning Commission; if the Council determines the Planning Commission did not do their job that may not be fair because the Council will have access to information that was not made available to the Planning Commission. He stated it seems to him the Council should only have access to the same information if the Council's job is to determine whether the Planning Commission did their job. He stated he wanted to mention that for the record; it is not fair to the Planning Commission to not provide them the entire puzzle and then allow the Council to determine whether they acted appropriately. Mr. Call stated there is a nuance in the City's ordinance that allows for a public hearing related to an appeal as well as the ability for the Council to receive additional evidence or hear new evidence in the form of testimony from the appellants and the appellees. He stated typically the way an appeal works is the person that has filed the appeal would address the appeal authority first since they have the burden of presenting the evidence supporting their appeal. He noted the appellee would then have an opportunity to respond after which most appeal authorities allow both sides a short response

time to address anything new that may have been raised in either parties argument. He stated that response time is usually five minutes or less.

Mayor Harris stated the Council will first hear testimony from the appellants. He stated two of the appellants will present the case for the group.

Mark Pontius, 3567 North 575 East, stated he was not planning on speaking tonight, but he wants to tell the Council that he is not a Baguley supporter; one of the things he has noticed in the written and oral comments that have been made since he became involved in this issue about two months ago is that none of the folks supporting the continuation of the CUP are adjacent neighbors of Mr. Baguley's. He stated that he did not know Mr. Baguley personally until he moved into the neighborhood about a year and a half ago. He stated he has no personal axe to grind with him, but by the same token he is also not a member of Mr. Baguley's church, his social milieu, a friend of the family, or a person that has had the opportunity to use Mr. Baguley's auto service. He stated, however, that when this issue was brought to his attention about two months ago he carefully researched the history of it and in the history there is a right and a wrong; when he sided with the appellants based on the rightness of the City following its own codes and the intent of its zoning ordinance he was warned by the appellants that he would be facing the wrath of the Baguley supporters. He stated that in his opinion most of them have no standing because they are not adjacent neighbors to the Baguley's. He stated so many of the comments are from people that say they have known Mr. Baguley for years; they may live across town, but they have been customers of his and they attest to the fact that he does good maintenance work. He stated that in his opinion those comments have no standing in this issue. He stated he was warned that by taking the side of the appellants he would be putting himself at risk in the neighborhood; at first, he did not believe it but now he believes he knows how this issue will turn out tonight and he is no longer comfortable living in his neighborhood. He stated his mailman no longer waves to him and he gets glares from people living by him. He stated the entire Council has heard the hoots and defamation coming from the Baguley supporters, who are not adjacent neighbors of Mr. Baguley. He stated that in order to support continuation of the CUP the Council must tell the appellants, a group of people that he was not originally a part of, that they are liars and that they have no evidence. He stated when the group has attempted to collect hard evidence they have been called out by the non-adjacent neighbors for being "mean old men". He reiterated he thinks he knows where the decision will lie tonight and when that decision is made the Council will have irrevocably created a precedent in North Ogden that if someone is popular in the town and they want to run a business from their garage, no matter how incompatible the business may be with the neighborhood – he has moved 18 different times and has lived in 18 different neighborhoods across the country and in Europe and in every neighborhood he has lived in, if the adjacent neighbors knew there was going to be an auto repair shop moving next to them they would have complained. He stated that the City can contest whether or not it is following all of the arcane requirements that were placed on the business because the City knows it was an incompatible use and the City can argue whether there have been violations, but regardless the City is setting a precedent that anyone that is popular enough around town or can get enough of their church buddies to say they are a nice person and should be allowed to violate the code. An auto repair garage is not a residential use and the City will set a precedent they can never go back from. He stated that when that precedent is set it is his sincere hope that a really ugly business moves in next to one of the Baguley supporters because right now they do not have a "dog in the fight" other than that they know Mr. Baguley and he is a nice man. He stated that he wished some of the neighbors were nicer people; he has done nothing to any of them, but he will be surprised if he does not see pitchforks and torches now that he has taken a stand on this issue. He stated he will be a good neighbor regardless of the outcome of this issue, but he does not appreciate a lot of what has happened. He stated there is a right and wrong in this issue and it has nothing to do with whether one likes Mr. Baguley or uses his discount services.

Mr. Call noted that it would be appropriate for the Council to ask questions of the appellants after they conclude their presentation.

Council Member Bigler asked Mr. Pontius where he lives in relation to Mr. Baguley's home. He stated Mr. Pontius said that he researched the issue, but not that he had witnessed anything happening at the home. Mr. Pontius stated that he did not try to critique Mr. Baguley's business. He stated he lives two houses down from Mr. Baguley and across the street. He added that the only thing he has noticed as a result of Mr. Baguley's operation is some additional traffic on the street. He stated he has not made traffic logs or video tapes so he is sure there is a group of people in this room that will say there is no additional traffic and he will be called a liar. Council Member Bigler asked where the other gentleman that had to leave the meeting lives from Mr. Baguley's house. Mr. Pontius stated he lives approximately 200 feet to the northeast of Mr. Baguley – through one lot and across the street. Council Member Bigler stated he wanted to make that clear because there have been a lot of emails that have said there are four appellants that live right by the Baguleys and he wanted to understand where those homes are actually located. Mr. Pontius stated that he is new enough to the neighborhood that he does not know all the specifics of where everyone lives.

Charles Crippen, 3576 North 575 East, stated he wanted to thank the members of the appeal authority for taking the time to listen to what he has to say. He stated he initially wanted to thank Council Member Bigler for his stance on the City's Public Works building project; he was also opposed to the expense associated with the project and he appreciates the outcome of that situation. He stated, however, that he will make some comments about Council Member Bigler during his presentation regarding this issue; they are sincere, but they are not meant to be disrespectful.

Mayor Harris stated he will not allow any personal attacks. Council Member Bigler stated the presentation to be made this evening should be relative to whether Mr. Baguley's business is within the law. Mr. Call stated that is correct; the appeal authority should be trying to focus on the facts associated with the CUP and the requirements of the CUP. Mayor Harris asked those speaking to confine their comments to what the appeal is about. Council Member Bigler stated he would be more than happy to take some time to meet with Mr. Crippen face to face and hear anything he has to say, but this is not the proper venue. Mr. Crippen stated there have been some untruths mentioned in the public forum about the neighborhood and whether there was work done on his car by Mr. Baguley; that is an untruth and the very fact that Council Member Bigler mentioned that two weeks ago and that he understood that Mr. Baguley worked on his vehicle causes him concern. He stated that it played a role in influencing his decision; it happened in 2010 and it still plays a role today. He then stated two weeks ago Angie Erickson made some very emotional remarks before the Council and they reflect some of his sentiments regarding the neighborhood. He stated he would add that Mr. and Mrs. Swenson as well as he and his wife really respect the Erickson family and they value them as neighbors. He stated he holds no hard feelings against them for their position on this issue. He stated two weeks ago at this same venue Mr. Baguley made a flippant remark about there not being some fog coming from his garage and into Mr. Crippen's house. He stated that as ludicrous and offensive as that statement was, it got him thinking and a certain episode of the Twilight Zone came to mind for him; the more he recalled and thought about the 30 minute episode, the more he realized it was true. He stated the episode started with residents of a neighborhood waking up one weekend morning to discover that they were surrounded by a very thick and mysterious fog; as the morning wore on and they completed their chores around their homes and yards, the residents became worried about the continued presence of the very thick and mysterious fog. He stated the area they lived in was not prone to such weather conditions and they had never experienced a fog like this; there was no weather forecast to explain the presence of the fog. He stated the fog was not burning off with the rising new daytime sun and when a resident finished his chores and drove down the street to run some errands, he disappeared into the fog and meanwhile the residents forgot of their plans for the day and began to focus on their discussions regarding the very thick mysterious fog; they speculated about why it was there

in the first place, where it came from, and why it had not dissipated. He stated that soon they realized their neighbor had not returned from his errands; not having cell phones in that day another neighbor drove off down the street to the local hardware store in search of their missing friend. He stated that as Saturday drew to a close neither neighbor had returned and soon fog as well as darkness enveloped the increasingly anxious neighborhood. He stated the next morning daylight revealed that very same thick mysterious fog was still surrounding the neighborhood and by now all the residents were becoming suspicious and paranoid that someone, maybe one of the neighbors, was responsible for the disappearance of the two neighbors and what was happening to the neighborhood. He stated that very quickly their paranoia intensified and they began to make accusations aimed at an easy target – a less popular resident. He stated they became people they had never conceived they could become; as the situation rapidly deteriorated among the neighbors and as daylight turned to dark that day the camera turned towards the fog bank, panned down to the end of the street, and through the fog bank and into a clear starlit night. He stated the camera panned downward and zoomed in to reveal a nighttime scene of a peaceful small community with houselights, streetlights, and car lights, except for a stark round circle in the middle of the community. He stated that as the camera came closer and closer it revealed severed power cables sparking, emergency vehicle lights flashing around the edge of the perimeter of the gaping hole and people standing and looking at the wreckage of two cars in the middle of the dark spot. He stated the others were peering skyward with a look of amazement on their faces; the camera turned and panned up skyward to reveal a very thick mysterious cloud or fog hovering in the night above the small community. He stated in the sequel to this Twilight Zone neighborhood he sees his neighborhood ripped out of the middle of this small community of North Ogden and transported over a remote outlying area of North Ogden and dropped in a free-fall for 3,000 feet to become the village of carnage and strewn all over the streets of the village of carnage are the bleeding and broken bodies and body parts of their neighborly relationships that were once friendly. He stated what the City has done in the past 33 months since September 1, 2010 when the legal procedure was circumvented to make a special and unlawful exception to the residential zoning codes in his neighborhood, it ripped the neighborhood out of the City's peaceful residential neighborhoods and condemned and banished all of the neighbors to the village of carnage. He asked how the City can expect the neighborhood to heal when they have been consigned to a situation they are powerless to heal from on their own. He stated that what has happened is the City has legalized and unlawful source of two very addictive drugs; Mr. and Mrs. Baguley and their customers are addicted to the two very powerful drugs. He stated the drugs are combined to form an elixir called a luxury, which his comprised of easy money and convenience. He stated the Baguley's have had the luxury of operating a commercial land use less than 20 feet from their breakfast table and they could never hope to do that in any other city in this county. He stated they are addicted to the savings derived from not having to incur normal business overhead expenses that would occur in a commercial zone, as well as the extra effort Mr. Baguley would have to expend to cover those legitimate overhead expenses. He stated their customers are addicted to the money they save by not paying for the overhead expenses and costs as well as the convenience of not having to drive more than a few houses or blocks from their home. He stated the customers are bringing one ingredient needed for the elixir; it is their cars and other items that need to be repaired by Mr. Baguley; as a result, Mr. Baguley's customers participate right along with Tom's Auto Repair, LLC in the assault on the other families in the neighborhood. He stated that just like an addict some of the people will do and say anything to stop anyone from removing their source of this drug; they scream and shout that they have the right to the luxury of the elixir of easy money and convenience of having an auto repair shop located just doors down the street from their homes. He stated that meanwhile the immediate neighbors have to deal with the weekly and even daily attacks on their lawful right to enjoy their residential homes; the only way the neighborhood will ever have a chance of healing is to remove the illegal land use that produces, at the expense of the neighbors, the elixir – the luxury of easy money and convenience. He asked that the mysterious fog bank and producer of the drug elixir be removed to release them all from the village of carnage so they can begin to rebuild their neighborhood and join the rest of the peaceful community of North Ogden City.

Council Member Bigler stated the City Attorney indicated that the City Council is the judge in this case and that is why he is asking questions. He stated that with the two of the appellants having finished making their comments he has not heard anything about Mr. Baguley breaking the law or violating the conditions of the CUP; rather, their 'beef' is that the City is allowing a business that shouldn't be there and that the business is illegal rather than that the Baguley's have done anything wrong. Mr. Crippen stated that what the City has done is put the immediate neighbors in an impossible situation by approving a business that produces fumes from materials with labels that say they are toxic and harmful to health. He stated the City has approved noise that meets the standards of its own nuisance ordinance; in order to prove that noise exists the appellants would have to rent or buy very expensive noise detecting equipment. He stated it may come to that eventually, but because everyone on the other side of the issue has been very good at painting the immediate neighbors as hypocrites, liars, exaggerators, and revengeful. . .he is not out to get Tom Baguley and he just wants the source of the fumes that come into his house and make his wife sick and give her headaches because she is sensitive to scents to be gone. He stated the noise that assaults the other neighbors that are closest to the garage. . .the City has put the neighbors in a position that they cannot provide proof of those things without going to great expense. He added that based on a document that he managed to get from the City last Friday, the procedure that the Planning Commission originally followed in considering the CUP was a break in lawful procedure in determining what constitutes a permitted or conditional home occupation use as far as he is concerned and he thinks the property rights ombudsman would concur. He stated he will provide that information as soon as he can, though he does not know it will do any good. He stated it can be somewhat complex because it is necessary to know how the City Code works or should work.

Council Member Fawson stated that he encourages people to bring solutions forward and he asked Mr. Crippen if there are any conditions he would like to see imposed to appease the immediate neighbors if the appeal authority makes the decision to allow Mr. Baguley's business to continue. Mr. Crippen stated that determination is incumbent upon the applicant according to the City Code; the Mayor sent a proposal to the Planning Commission to identify land uses that may not be compatible in residential areas and the Planning Commission dismissed that idea and made it easier for an applicant for a CUP of this sort to receive approval. Council Member Fawson stated there are currently restrictions associated with the CUP and he again asked Mr. Crippen if there are other restrictions that may appease the neighbors. Mr. Crippen stated the main issues are the noise and fumes associated with the business. Council Member Fawson asked Mr. Crippen for his recommendation regarding how to mitigate the noise and fumes. Mr. Crippen stated he does not know and he asked if the City has engineers that could address that issue. He stated the City's nuisance code states that no noise, dust, vibrations, fumes, or odors shall be emitted beyond the premises. He stated that same statement is not reflected in the CUP and somehow the City has decided that the regulations regarding a CUP supersede the nuisance code and that is wrong. He stated he would guarantee it is legally incorrect.

Council Member Bigler stated when this all came about a few years ago the City Council tried to listen to Mr. Crippen and he helped the Council put the restrictions associated with the CUP in place. He stated Mr. Crippen said a garage should not be able to operate without a ventilation system because the gases could be emitted and if there was an explosion that would be a danger to the neighborhood. He stated Mr. Crippen helped to recommend restrictions and the City Council, in trying to be amenable to Mr. Crippen, required Mr. Baguley to install a ventilation system. He stated there is a complaint about the noise and the City also required Mr. Baguley to install insulation to mitigate the noise. He stated he agreed with Council Member Fawson that it would be great if the appellants could recommend some solutions to solve the problems now, but he reiterated the restrictions currently associated with the CUP actually come from the concerns and complaints made by Mr. Crippen in the past and now he is complaining that fumes are escaping the exhaust system. Mr. Crippen stated he did not ask the Council to require a ventilations system and that was actually Council Member Harris. Council Member Bigler stated the concern about the ventilation system came from Mr. Crippen. Mr. Crippen stated he was simply quoting the City's

home occupation code at the time. He then stated he wanted to remind people of basic junior high chemistry and he stated hydro-carbon molecules are heavier than air and on a calm, still day when they are dispersed out of the garage through the ventilation system they settle to the ground. He stated he is downhill from Mr. Baguley's property; there is a six foot fence that sits on a two foot berm so it is nearly eight feet tall and it forms a barrier that channels the fumes down into his yard and into the back of his house. He stated that is plain physics and it applies on a calm, still day. He stated if the wind is blowing a little, the air probably blows up towards the Dufrene's or Clark's house. He stated that regarding procedure, he understands why the Planning Commission focused on the CUP code because what they had before them was an application for a CUP and the application for the home occupation was completed in November of 2010 after the CUP was considered and approved. He stated that the application lists all the standards the business must meet before it can be granted and the Planning Commission did not have that information in front of them. He stated that what the Planning Commission and the City Council had before them was the application for the CUP and basically all that document asks the applicant to address are traffic, parking, and landscaping issues. He stated it is no wonder that the City ended up with what it got, but that is a break in procedure in his opinion.

Mayor Harris asked Mr. Crippen to provide the City with a copy of the statement that he read. Mr. Crippen stated he would like a copy back because he also penciled in some notes. He then stated he does not hate the people in his neighborhood and he is not out to get Mr. Baguley; Mr. Baguley can provide for himself because he is a very skilled mechanic. He stated it is his understanding that he is very good at diagnostics and that would be necessary to be a ASC certified master mechanic; he can get a job anywhere in this town and he chooses not to.

Council Member Bailey addressed Mr. Crippen and stated it his understanding that the Council, in its role as the appeal authority, is very narrowly confined as to what they can do. Mr. Crippen stated he understands that and he thinks he knows what will happen tonight, but he will not hold that personally against the Council. Council Member Bailey stated the appeal authority is limited to consider the six items that are addressed. Mr. Crippen stated he read Mr. Call's opinion and he understands that. Council Member Bailey stated he does recognize there are significant issues. Mr. Crippen stated two examples are the two families that moved in after the CUP was approved and they had no say in the original approval in 2010, but they are being impacted – particularly the Dufrene family. He added that Mr. Pontius is also impacted and he is worried about the problems as it is. Council Member Bailey stated he understands those concerns and he feels there are some issues that the City will likely need to deal with in the future. Mr. Crippen stated he would hope that is the case and it may take cleaning house of the Planning Commission based on what they did two years ago.

Mr. Pontius stated that he also understands there is a very narrow window of items for the Council to consider and that is partly why he said during his statement that he understands where this hearing is headed; the only thing he wants the Council to consider going forward is that, as he understands the City Code, an automobile repair business is a restricted use in one of the commercial zones of the City and there is a reason it is not listed as a home occupation. He stated that if in order to accommodate an individual the City can make an exception to put an incompatible business next door to neighbors and giving them virtually no say in the process because if they have complaints they are disregarded, he would like to know the limit to those kinds of things happening. He asked if a slaughter house would be allowed in a neighborhood even if people complained about the noise and odors associated with the business. He asked if the City would say that is ok because the business owner would comply with all the conditions associated with their CUP. He stated that the immediate neighbors may say that the conditions seem severe and difficult to comply with, but the City would tell them "tough luck". He stated that if someone does complain and the CUP holder has some friends, the complainer will be told to "sit down and shut up" and there will be another broken neighborhood. He again inquired as to the limit for allowing businesses in residential neighborhoods. He stated the Council heard some of the hoots just now

from the audience and this is a libertarian issue; a man has property and he has a right to do with it as he pleases, but if that is true then the City should dispense with all of the procedure and make residential areas a free zone.

Council Member Bigler stated that Mr. Pontius said earlier that he has researched the issue and he thinks the law is bad, but he is not personally impacted by the Baguley's business. Mr. Pontius stated that he tried to stay neutral on the issue when he first heard about it until the City Manager sent out a very thorough packet of information. He thanked the City Manager for preparing the packet because it must have been quite an undertaking. He stated he read through every page in the packet and he also went back to the City Code for the second time because he was a long distance move to the community; after living all over the world he selected North Ogden and he made what he believed would be his final purchase in his neighborhood because it was a beautiful neighborhood and the neighbors seemed like great people. He stated he researched for hours before he made an offer on the house and one of the things he did was check into whether the neighborhood could change to make it no longer beautiful. He stated he did the research from Virginia and the residential codes appeared to protect his investment. He stated he got here and lived here for a year and he found out the City can approve anything they want to next door to him and if he complains all that needs to happen is for supporters of the other property owner to stand up and call him a liar and the case is closed. He stated he is not impacted by Mr. Baguley or his business, but he thinks the City is making a bad decision; he asked the point of the City Codes. He stated the code certainly tricked him into thinking nothing could happen in his neighborhood. He stated that is what he meant by the research he conducted. He stated it looks to him that there is a special exception made for reasons that he does not want to raise in this forum; it looks like a violation of the spirit and intent of the residential codes in the City. He stated he thinks it was done for a reason and he does not think it was done in order to comply with laws and have fair and equal treatment in application of the laws.

Tom Baguley, 3590 North 575 East, stated a lot has been said tonight and it is not going to be possible to respond to all of it, but it sounds like everyone already feels they know how the issue will end up tonight and he hopes that is not the case because the issue is supposed to be decided by all members of the Council and he wants the appellants to know that he has not worked on vehicles of any of the City Council Members or any members of the Planning Commission. All members of the City Council confirmed that Mr. Baguley has never worked on their vehicles. Mr. Baguley stated the same is true for the Planning Commission though allegations have been made that he has worked on their vehicles and the Planning Commission has looked favorably upon his applications as a result. He stated that is not the case. He stated that he has counted seventeen people that are in attendance this evening that support him, though he did not ask one of them to attend. He stated they support him and maybe they would like to speak, but most of them came to see what is happening because they do not understand it. He then asked the Council if they received the map called the 'impacted area map' that he sent to the Council. He added that he also has other photographs taken of his property today. He stated the photographs show something that was put on his door and an appropriate response was put on Mr. Crippen's door. He stated that the 'impacted area map' highlights the area that the appellants are talking about, which is the area right around his house or less than 300 feet.

Mr. Call asked if the map was included in the packet of documents that was emailed to everyone. Mr. Crippen answered no. Council Member Bailey stated that the City asked all parties of the appeal to have all items submitted to the City by last Tuesday so that the Council would have time to review everything. He stated he has received a number of emails from Mr. Baguley in the last couple of days, but he reiterated the City had asked that everything be submitted by last week so the Council would have time to review it. Mr. Baguley apologized that the map was not provided prior to the deadline and he noted it was sent about five days ago. He stated he simply wanted to use the map to show the homes right around his home that are affected because during the last meeting it was mentioned that there were more

individuals involved in the appeal and that was taken into consideration by the Council and played into how they decided to proceed with the appeal. He stated there were six appellants last time and there are six people tonight. He stated the appellants include Mr. and Mrs. Lee, Mr. Greenwood, Mr. Neibaur, Mr. Crippen, and Mr. Swenson; however, only Mr. Neibaur signed the appeal last time and this time the appeal includes the signatures of all the appellants. He noted two additional people were added to the appeal: Mr. Pontius and Mr. Clark. He stated Mr. Clark has not attended any meetings during which this issue has been discussed. He stated he saw Mr. Clark a couple of days ago and this issue was not discussed. He added Mr. Clark has never made him an offer to work at his facility, which has been one of the stories that has been told. He stated Mr. Clark's facility is not even big enough for him to move into and his garage is actually bigger than Mr. Clark's building, which used to be a filling station. He stated it would not be large enough for both of them to work in as Mr. Clark uses it as an emissions facility. He stated the rumor is that Mr. Clark has offered him a place to operate his business from, but that is not true. He highlighted the location of various neighbors' homes in his neighborhood and noted there is a letter of support from one of his neighbors who was not able to be here this evening. He stated one paragraph of the letter reads: "had I not been previously made aware of Mr. Baguley's auto business, I would have no idea there is even a business operated on the Baguley's property. I have not noticed any detectable auto repair noise, I have seen no parking issues, no unusual traffic, no tow trucks, no run down cars left outside, and I have not seen any repair activity occurring with the garage door open." Mr. Baguley stated that the neighbor stays home quite a bit when he is not travelling and these are his observations. He stated what everyone is here about tonight is to decide whether there have been facts or evidence presented against him and he has not seen or heard any yet. He stated he did make an attempt, regarding the main issue expressed by Mr. Crippen of fumes and noise, to contact the Health Department and the Utah Department of Environmental Quality in 2010 and they had no way to come to his home to check for fumes and they recommended that he use a private company. He stated he called the private company and they said they do not usually work on small businesses such as his, and especially a home garage with only a one car bay. He stated they worked on larger facilities than his and they had never been asked to work on anything that small. He stated that the company offered to come to his home and use monitors to test his garage and that it would be very expensive to do that; however, he recommended against doing the work because he did not believe he would find any results with his equipment. He stated during the last meeting there was mention by the City Council that 'we' should give 'these men' respect for their work in the armed forces. He stated he does not deny that and 'we' should give them kudos, handshakes, and thanks for their service; but, he does not believe their position or rank that they rose to in the armed forces has any bearing or meaning in this matter. He stated the service they have performed deserves respect, but their complaints that have been made weekly have been baseless and have been researched by the City's code enforcement officer and the City Manager who have both found in every case that the claims have been baseless. He stated there was a complaint about tires and they turned out to be from his motorcycle and his son's truck. He stated there was a complaint about a trailer that was not parked on a pad and that was a legitimate complaint so he moved it, but his was the only trailer moved in the neighborhood. He stated other complaints about the smell of solvent by someone sitting across the street from his house were mentioned tonight and the person making the complaint said the smell was gagging them to the point that he could not eat his salted nut bar. He stated the solvent he uses is strong dishwashing detergent; it is biodegradable and water based and when the City Manager came to check the complaint he showed him the tank that had been dried up for well over a year and that when the complaint was made on May 7, 2013 he was not working in his garage on vehicles or motorcycles; instead he was working in his backyard that day and on the day before that he was also not working on cars. He stated his business does not create traffic up and down the street and he does work on an average of four cars per week based on the number of cars he has worked on year to date. He stated he does not see how four cars per week can be considered to create excessive traffic. He added that he now keeps a log to show what vehicles are brought to his house because there have been comments made about two trucks coming to his home at all hours. He stated he can provide his repair orders and logs to show when tow trucks have actually come to his home; he has had no tow trucks come to his house at all this year. He stated the City

was asked to check on a complaint that tow trucks were coming to his house at all hours of the night. He reiterated there have been no tow trucks at his property to date this year, let alone in the last couple of weeks. He stated he has nothing further to present, but would be willing to answer any questions of the Council.

Council Member Taylor stated the six conditions of the CUP have been mentioned this evening and he asked Mr. Baguley to provide a summary of how he has addressed each of the conditions. Mr. Baguley stated that one of the conditions that has not been mentioned was the requirement regarding the door or windows being closed when he is working and he thinks that condition may be confusing to some people. He stated the condition was originally related to generating noise and it was changed to mean the door could not be up at all, but the City Manager later said that was incorrect. Council Member Taylor stated that he originally asked that question because he wondered if it would be unsafe for Mr. Baguley to be working in his garage with all doors and windows closed. Mr. Baguley stated that is why he installed a ventilation system. He then referenced the other conditions, including the insulation on the doors to quiet the noise generated in the garage. He stated the insulation does not create a sound proof room, but he has asked people from the City to listen to the noise levels generated by his work with the doors closed. He stated some people have responded and have come to his house over the last couple of months to listen to the noise and it has been mentioned that a car driving by was louder than his impact and air compressor while they were running simultaneously. He stated the person that made that statement was standing on the other side of the street. He stated Mr. Swenson is the person that complains the most about the noise.

Council Member Fawson asked Mr. Baguley if there are any other ways he feels he can fairly mitigate some of the concerns raised by the appellants. Mr. Baguley stated that he sat down with the appellants the morning of the last meeting date and he is offering to make concessions, but they came to offer him Mr. Clark's facility to work in. He stated he was open to that and he told them that he would be willing to continue discussions about making his business more low profile.

Council Member Bailey stated that he has been a holder of a home occupation permit in North Ogden for about 30 years now and in light of all of the controversy and problems that this has caused in the neighborhood he wondered if Mr. Baguley has ever considered moving his business elsewhere. Mr. Baguley stated he has looked into it, but it will be very expensive. He stated there is another business that is going to be closing soon and the space it will vacate could be rented for \$2,000 per month, but that is much more than he can afford to pay for rent. He stated it is located in Farr West, which is a little far for him to travel as well. He added he would also lose customers if he decided to move to that location. He stated he has also looked at another space on Washington Boulevard right next to Papa Johns, but it would not accommodate his business and he would need to make a lot of changes to turn it into a shop. He stated he met with the owner of that space two weeks ago and it does not seem feasible to move there. He stated he has looked around and he understands that eventually he will likely need to move out, but there is nothing feasible available to him now. Council Member Bailey stated that if Mr. Baguley were to relocate his business, all the problems would disappear. Mr. Baguley agreed and stated the same would be true if he decided to get a regular job, but he loves serving the people that he works with and he hopes they enjoy what he does for them. He stated it is great to be able to provide the service he provides in North Ogden, but he is not the only one that does it. He stated there is a machine shop and one other auto repair business similar to his. He added there are quite a few unlicensed businesses doing the same thing. He stated he is licensed and legal and he hoped the Council would consider that.

Council Member Bigler stated he does not see it as the City's business where someone determines to conduct their business. He stated the City's job is to determine if this is a legal business in North Ogden or not. He stated it is not the Council's job to tell Mr. Baguley where to open his business unless it is against the law. He stated the issue for the appeal authority to consider tonight is whether Mr. Baguley has violated the license agreement; this hearing is not even to determine whether the law that was put in

place by a previous City Attorney matches the City Code. He stated this hearing is strictly to determine whether Mr. Baguley has violated his license. Mr. Call stated that is correct as the decision made by the Planning Commission was the subject of the appeal. Council Member Bigler stated he has not seen or heard anything that proves that Mr. Baguley has been in violation; instead the appellants do not want the business in their neighborhood.

Council Member Bailey stated that it is irrelevant to this issue, but it is absolutely the City's business to determine where a business can or cannot open; that is why the City has zoning and land use laws and he noted some things are not allowed in certain zones. He stated this particular situation is a matter of a CUP where the Planning Commission voted to allow a non-permitted use in a residential zone. He stated after reading the minutes of those meetings he has some real concerns about what took place at the point in time that the CUP was issued, but that is beyond the scope of anything the Council can consider or deliberate tonight.

Council Member Bigler stated that he was not saying that the City lets anyone do anything they want to anytime and anywhere; the City has laws established and if something is legal it will be allowed and if it is not legal the applicant will be told to go elsewhere. He stated it is not the Council's job to tell Mr. Baguley to move his business to Washington Boulevard or Wall Avenue. He stated there are laws for a reason and if someone is within the law and has not violated the parameters of their license then the Council needs to quit picking on them. He stated this business has had much more scrutiny than the other similar business in town; the City sent letters to everybody and it opened a hornet's nest though that was not done for the other similar business. He stated that if Mr. Baguley is operating within the license that the City granted him then it needs to be left alone and he needs to be treated equally and fairly as compared to the other businesses in the City.

Mr. Baguley stated that he believes that if the Planning Commission had seen him as the first opening an auto shop they would have considered it for a longer period of time, but since he was not the first business of his kind he thinks they felt less pressure regarding his application. He stated all decisions of the Planning Commission regarding his business have been voted upon unanimously.

Council Member Taylor stated that after reading the advice of the City Attorney based on State Law, his opinion is that this issue comes down to the conditions and the annual review related to this CUP. He stated he would like Mr. Baguley to respond to the complaints about the violations of those conditions. He stated he understands that there was a HVAC system installed at Mr. Baguley's home, but he asked Mr. Baguley if he insulated the garage and how he carried that condition out. Mr. Baguley stated that he insulated the garage doors and that was inspected by Mr. Kerr, who found some other violations and electrical concerns at his home that were addressed at that time. Council Member Taylor asked if Mr. Baguley has complied with the condition that not more than two vehicles be stored on his property at a time. Mr. Baguley answered yes and stated that he does all his work by appointment, but there have been times that people have come to his home unannounced. He stated that occurs about 0.1 percent of the time and 99.9 percent of the time all work is done by appointment. Council Member Taylor asked about the condition that the garage door be closed and he asked Mr. Baguley if he and the City Manager have reached a resolution regarding that condition. Mr. Baguley stated that he still feels that condition is confusing and he is not sure exactly what that condition means. He stated his interpretation is that he is required to keep the doors and windows shut only when he is making noise, but if he is doing something like ordering parts or writing a repair order, the doors and windows can be open. He stated those tasks can often take him up to 30 minutes and he does not understand why the doors or windows cannot be open. He stated it is necessary to open the door to pull cars in and out and he feels the door should also be opened when he is not physically working. Council Member Taylor asked Mr. Call his interpretation of that condition. Mr. Call stated he read the actual discussion regarding the condition and it appears to him that when a car is being worked on the garage door should be closed at all times. He stated that

before condition received final approval a change was made to the motion by Council Member Taylor due to his concern that Mr. Baguley would be trapped in his garage with all doors and windows shut and that could be harmful. He stated his interpretation is that the garage door shall always remain closed when cars are being worked on, but the man door and the window could be left open. Council Member Taylor asked if anyone has reviewed the recording of the meeting to determine if that was the intent of the motion. Council Member Bigler stated he had a final copy of the minutes at the last meeting and they said that Mr. Baguley could leave the man door or window open when working on a vehicle unless he is creating excessive noise. He stated Mr. Baguley installed a ventilation system to take care of the fumes and the garage door was to be shut when Mr. Baguley was working. Council Member Taylor asked about the fifth condition that no vehicles shall block the sidewalk and he asked Mr. Baguley how he assures that condition is met. Mr. Baguley stated that condition came about because his son used to park his truck on the sidewalk when he got home from work and Mr. Swenson did not like that. He stated that is also in the minutes of the meeting where the issue was discussed. He stated he no longer parks vehicles on the sidewalk and there has been no evidence of that occurring. Council Member Bigler stated that was not associated with his business. Mr. Baguley stated that is correct.

Council Member Stoker stated that the appellants raised the issue of the City Code and she asked Mr. Baguley if he has read the City Code. She stated the City Code is in place to protect not only the City, but the residents as well. She stated that she finds herself in a quandary because if the City Code is not being followed and the business should not have been allowed in a residential area. . .there are ordinances that prohibit businesses in residential areas and that was one of the biggest concerns regarding the location of the new Public Works building. She stated she is unclear on whether the City has violated the City Code by issuing this CUP. Council Member Bigler stated there are two different issues. Council Member Stoker stated that is true and that is her concern. Council Member Bigler stated that if the Council needs to delve into the City Code and take a look at it independent of this issue, then that is what needs to be done with the assistance of the Planning Commission. He stated this is a different issue and that is why the water is getting muddy. He stated the question for the Council to consider tonight is only whether Mr. Baguley has violated his license. Mr. Call clarified the question is whether Mr. Baguley has violated the conditions of his CUP.

Council Member Bailey asked Mr. Baguley to provide information about the exhaust system he installed. Mr. Baguley stated it is a fan installed next to the roof that pulls out any fumes from the garage at a very slow rate. Council Member Bailey asked if it is the type of system that may be installed in a commercial garage. Mr. Baguley answered yes; he has talked to other businesses in town, such as Big O Tires, about ventilation at their shop and they said that they open their doors to get the fumes out of the garage and they have a fan inside of their bays to help blow the fumes out. He stated he has been asked to do more than some of the bigger mechanic shops in the area. Council Member Bailey stated those businesses are located in commercial areas. Mr. Baguley stated that is true, but they do not have a large exhaust fan sucking the fumes out of their garage. He added that he does not do body work at his shop; he does light mechanical work. He stated paint and body shops have huge fans that suck out the odors and fumes that are toxic. He stated the only thing that he uses is detergent and it is biodegradable and water based, but the claim has been made that it is toxic. He stated some may be referencing vehicle fumes generated by cars running for a long period of time, but today he only worked on two cars in his garage and they ran for five minutes total. He stated Angie Erickson was in attendance at the last meeting and she mentioned that her suburban probably creates more pollution driving up and down the street as he does by letting cars run in his garage; there is no reason to let a vehicle run for an extended period of time in his garage because timing is detected by a computer. He stated the only time he would allow a vehicle to run is if it has a tune up problem and he is trying to diagnose it and that happens from time to time; in that case he will allow a car to run for twenty to thirty minutes.

Council Member Bigler stated that in the past when the conditions were added to require a ventilation system and insulation of the garage door, there was a process. He stated the Council waited for the City Administration to sign off on the work that Mr. Baguley did. He stated that the City Administration signed off on the ventilation system installed at the garage and they came back to the Council and explained Mr. Baguley had met all of the conditions of the CUP. He stated whatever Mr. Baguley did was approved according to the specifications that were given.

Mr. Pontius stated he wanted to make sure as a matter of record that everyone understands that he signed up to be part of this appeal as a matter of principle, not because he can attest to any of the violations that the other appellants claimed to have noticed as a result of living adjacent to the business. He stated he does not live adjacent to the business and he cannot attest to those violations. He stated that what he can see is that the City has demonstrated a pattern of behavior that shows him that anything can move in next to him and that should matter to anyone in the City. He stated this entire controversy should be made public; other folks living in other neighborhoods should know that another business can move in and the tit for tat can begin there as well. He stated in some of his comments it may have sounded like he was scolding the Council and that is not the case. He stated that this has been an eye opener for him on just how difficult the Council's job is. He stated in this matter the Council is carrying the responsibility for whatever the Planning Commission did or did not do right. He stated he understands the Council is in a difficult position and he appreciates the tremendous amount of patience that they have shown throughout this process; it speaks to each Council Member's individual character that they are willing to listen to this controversy. He stated he believes he knows how the issue will be decided this evening. He addressed Council Member Bigler and stated that he appreciates his comments to make sure everyone understands there is a very narrow focus to be considered tonight and that this is not about the broader issue of whether the CUP being issued was right in the first place. He stated there is a precedent and Mr. Baguley has been allowed to conduct his business. He stated there is no proof of violations, which is what the City has asked for. He stated it is not that there have been no complaints – it is that there is no proof and that means the City is allowed to disregard the comments of the other appellants that are directly impacted by Mr. Baguley's business. He stated he also has appreciated Mr. Baguley's approach to this issue; he has been very reasonable in his attempts to make a non-compatible business compatible for the neighborhood. He stated he wished all of Mr. Baguley's supporters had been as even tempered as he had been. He then thanked the Council.

Mr. Crippen stated that like Mr. Baguley said it would be very difficult for him to prove violations of the nuisance code. He stated he found the same thing when trying to find testing equipment to detect the fumes coming from the garage and apparently his nose or his wife's nose or their ears are not scientifically supportable at discerning the emissions of fumes beyond the premises. He stated that in the future he would ask that the City not put other neighbors in the situation that his neighborhood is in.

Mr. Baguley asked if his wife could be allowed to speak. Mayor Harris answered no and stated Mr. Baguley is the appellee. Council Member Bigler stated they are husband and wife. He stated two people were allowed to speak against Mr. Baguley and if his wife wants to speak he would like to hear from her. Mayor Harris stated Mr. Pontius and Mr. Crippen are both official appellants and that is why they were allowed to speak. Ms. Baguley stated that she has been named. Mayor Harris stated many people have been named during the course of the hearing. Mr. Baguley stated that he would like to say that he has not asked any of his supporters to call them names or to approach them and say anything to cause problems in the neighborhood; he really wants the neighborhood to heal and he wants the situation to be resolved and that is why he met with them two weeks ago prior to the last Council meeting. He stated he is willing to work with them at this point and he knows that they truly believe that the things they have claimed are really happening; they believe it is so noisy that they cannot stand it and that the fumes from his business are causing them headaches and other health problems. He stated he does not believe that is the case and that is why he has asked others to check that out. He stated he has even asked the City to come and

observe his business, which employees have done, and they have never found any violation or problem associated with his business as they sat in their City trucks across the street from his home. He stated the City will continue to do that and he thinks it is good because it will prove one way or another that his business is not causing too much noise and is not causing his neighbors to be sick. He stated a lot of his neighbors are elderly and they were sick before he started his business about four years ago.

Mayor Harris asked Mr. Call to advise the Council regarding the procedure from this point forward. Mr. Call stated the appeal authority is welcome to discuss the issue or, if they are ready, they can make a motion regarding a decision on the appeal. He added, however, that the Council can decide to delay making a decision until the next meeting if they so choose.

Council Member Bigler moved to uphold the decision made by the Planning Commission regarding Mr. Baguley's CUP. Council Member Taylor seconded the motion.

Council Member Taylor stated that this is the most divisive issue he has seen in a neighborhood in the three and one half years that he has been a Council Member. He thanked everyone on both sides that has listened to what everyone had to say, even if it was something they did not agree with. He stated there have been people on both sides that have listened and been respectful and people that have not. He stated he is hopeful this neighborhood can move on. He then stated that once the appeal authority heard advice from the City Attorney, the issue came down to the five conditions associated with the CUP since that is what has been appealed and that is why several Council Members asked questions about those conditions. He stated that he thinks the CUP should be allowed to continue and he hopes that people on both sides of the issue can work together going forward.

Council Member Bigler stated that he does not think the Council can guarantee anything, but he would like City Administration to direct staff to treat this business like other businesses; usually if a violation is reported the City contacts the business and deals with them on a one-on-one basis rather than asking the neighbors of the business to be the police. He stated the way this issue was handled three years ago was wrong and that has helped divide the neighborhood. He stated if there is a business violation the City contacts them directly and works with them and is respectful through the process. He stated if someone finds a business is in violation the City will give them a warning and give them an opportunity to come into compliance and if they do not do that the City issues a fine or takes further action. He stated he would like to see that happen in the case of Mr. Baguley's business rather than the City sending letters to the neighbors to try to get them to police each other; the City has helped create this monster and it is very sad. He stated he hopes things can get better in the neighborhood after the decision that was made tonight and he is sure there are good people on both sides of the issue and they need to move on and heal and live in harmony with each other. He stated he would ask the City to help out with that in any way possible.

Council Member Fawson stated that because this discussion is confined to the six conditions associated with the CUP the Council is fairly limited in its analysis and review of any violations associated with the business. He stated there have obviously been complaints and he does not believe the Council's decision speaks to whether they would want the business next door to them and it does not go back to the 2010 decision to issue the CUP. He asked Mr. Call to weigh in on the sixth condition; if the Council upholds the five conditions and understands there were violations, can they change the sixth condition in this process or should they do that at a later time. Mr. Call stated it would be more appropriate to do that at a later date; in the original decision the Council was granting the CUP and they were able to tweak and modify the conditions, but in this situation the appeal authority is considering a straightforward appeal of the decision made by the Planning Commission to allow the CUP to continue.

Council Member Bailey stated it has been stated many times tonight that the Council is very limited in its scope as the appeal authority; his personal feelings are that the Planning Commission erred in issuing the

CUP to begin with, but at this point in time the hands of the appeal authority are tied and he is somewhat frustrated with the Council's inability to undo what he feels was done wrong in the first place. He stated he wanted that to be included in the record and he has no expectation that the decision made tonight, unless the neighbors decide to do something different, will make a lot of difference in the neighborhood and he is saddened by that.

Council Member Stoker stated that she also wanted to share her personal thoughts; she does not agree with what the Planning Commission did a few years back and she is also frustrated with the fact that the Council's hands are tied and that they cannot do anything to address it. She stated she does not think that what the Council says tonight will make any difference in the neighborhood unless they are willing to change things themselves and she is also sad about that.

Council Member Bigler stated he wanted to address the legality of the issue; even if the City looks at the home business ordinances and those ordinances end up being altered somewhat, the City cannot impose changes to the ordinance on existing businesses. Mr. Call stated that once a business is declared a non-conforming use, meaning that they do not comply with ordinances once they are changed or updated, the City can impose an amortization period, which means the business gets a certain amount of time to recoup their investment in their business and once they break even the use is eliminated. He stated a good example of that type of action is the strip club that was located in Ogden near the new Wal-Mart. He stated that can be a difficult political process, but it does happen. Council Member Bigler stated that the Council alters and changes many ordinances and usually uses become legal non-conforming uses. He stated he simply wanted to mention that for the record so that those that are opposed to this issue can understand that in the future a change to the ordinance will not necessary impact an existing business. He stated he does not want the issue to fester and he wants people to understand the process.

Mayor Harris stated there is a motion on the table and he called for a vote.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

5. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE TO VACATE VALLEY VIEW ESTATES SUBDIVISION.

A staff memo from Community Development Director Barker explained the Developers of the Valley View Estates Subdivision have determined that the notes regarding fire suppression issues for the homes to be constructed on the lots in this subdivision are to be changed. The changes have been approved by the North View Fire Marshall. When discussing this issue with the office of the Weber County Recorder (which we always do prior to recording), it became apparent that the best way to clarify this for future buyers to not be confused by leaving the existing plat on record would be to vacate the existing plat and record a new one which requires a vacating ordinance. This action would make sure that there would be no possibility of a future buyer to see and investigate the original plat and not be aware that there have been changes by recording a second plat.

Mr. Barker summarized his staff memo.

Council Member Bailey moved to adopt ordinance 2013-7 vacating the Valley View Estates Subdivision. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

Norman Schmehl stated he is the co-developer of the Valley View Estates Subdivision and he began the project in 2005 receiving construction approval in June of 2007; in August of 2007 the Pineview water company came to him and said they needed to connect to the Pineview lines on 3650 North rather than on 500 East. He stated that requires him to go 490 feet across property that he did not own and cannot get access to. He stated for the past several years they have tried to resolve that problem, but they are at a stalemate and there is a similarity with this problem as existed with the culinary water. He stated that with culinary water the City required larger water pipes to be connected to the houses in addition to the fire suppression systems. He stated the pressure was never tested until he requested a test a couple of months ago. He stated that at that time the Fire Marshall tested the system, but his test could not be relied upon. He stated he was forced to hire an independent contractor to test the system and that cost him over \$500. He stated that to make the plat amendment cost him an additional \$500; he is into this issue \$1,000 just because there is a pressure problem that was never checked. He stated he has the same concern about culinary water; he has asked the City repeatedly to fulfill its obligation to verify that the requirements that are being imposed on him are valid. He stated that he has asked for pressure tests at the entrance to the subdivision at 500 East and he is running into a stone wall. He stated he has been stuck on this project for five years now and he has lost three sales; two of those losses were a result of the requirement to install a fire suppression system. He reiterated the requirement for a fire suppression system was imposed in 2006, but the pressure was never tested. He stated that in his good faith he has an agreement with the City to use \$21,000 in escrow to go across the property to connect to the Pineview line on 3650 North if he is every granted an easement by the property owner. He stated that he has eight beautiful lots and he is hopeful that the decision made by the Council tonight will assist him in getting the lots sold and houses built. He stated, however, that he will only be able to build two houses based on the access to water for those houses. He stated he needs help from the City to somehow convince Pineview to test for sufficient pressure at 500 East to allow for all lot to be sold and built upon or to somehow secure access to the adjoining property to install 490 feet of pipe to connect to the Pineview system. He stated he will be required to pay for that pipe with no payback from the City or from Pineview. He stated his understanding is that he should only be required to pay for the impact that his project will have on the current system. He stated he does not have something specific to ask for except for the two things he requested be done by the City. He reiterated that right now he is unable to build and he is asking for the City's help.

Mayor Harris stated the City will make note of Mr. Schmehl's request and he noted there are many factors involved in this project, which has a long history. He stated the Council is likely not aware of everything that has occurred and he will ask the City Manager to look into the issue.

Council Member Bigler asked if a reasonable time frame be assigned to looking into the issue so that it does not drag out for six or eight months. He asked that staff look into the issue and present additional

information to the Council. Mayor Harris stated the City does not have any control over Pineview; the City has worked with them. Council Member Bigler stated that Mayor Harris said there is a lot the Council does not know and he asked what the City is going to do and where this issue will go from here. Mayor Harris stated that the City will need to look into Mr. Schmehl's requests. He stated it is in the best interest of the City to have the land developed. He stated he is not sure about the issues surrounding water pressure; the City has increased the capacity of its system, but originally the City Engineer drew a pressure line and the subdivision was on the boundary of that line and since that time the system has been improved and there are reasons why the culinary flow is now different than it was when the development was initially approved. He stated, however, the issue with Pineview is something the City cannot address. Council Member Bigler asked what Pineview is saying about the issue. Mayor Harris stated he does not know. Mr. Schmehl has said there is a four inch connection at 500 East and there is not enough pressure or flow in that pipe to service the eight lots and when a lot is in the process of being sold Pineview tells the potential buyer that there is not enough pressure for them to water their property. He stated he has offered to change the covenants for the subdivision to require a timed sprinkler system on each lot so that each lot will have sufficient pressure. He stated he has done analysis of the flow through a four inch pipe and it is possible to get enough water to cover 2.5 acres. He stated that taking away the roads and houses that will be built on the property, there is only about 1.5 acres that will need to be watered by Pineview water. He stated that in his view there is adequate water, but the issue is the pressure and Pineview will not allow him to proceed. He stated he is asking the City, since they are still imposing the requirement for secondary water, to ask Pineview if their requirements are valid. He stated the way to do that is to ask Pineview to prove that the pressure in the two lines is different enough to warrant this hold up. Council Member Bigler asked if the City Engineer agrees with his assessment of the pressure issues. Mr. Schmehl answered yes and noted the City Engineer told him that a timed sprinkler system would service all property in the development. He added there is a report from the Water Ombudsman that summarizes the entire situation as well as the City's responsibility, Pineview's responsibility, and the developer's responsibility. Council Member Bigler asked for a copy of that report. Mayor Harris stated the City has a copy and it can be provided to each member of the Council. He reiterated he will forward Mr. Schmehl's comments to the City Manager, but he is not willing to say that the issue will be solved in the next two months. Council Member Bigler stated he was not trying to put Mayor Harris on the spot to say the issue will be resolved; he was simply trying to find out when the issue will be brought back to the Council and he thanked Mayor Harris and Mr. Schmehl for the explanation. Mayor Harris stated the City will act in good faith. Mr. Schmehl stated the City has always acted in good faith and he is simply asking for further assistance.

The Council then took a ten minute break at 9:26 p.m.

The meeting reconvened at 9:36 p.m.

6. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ADOPTING FISCAL YEAR 2013-2014 FINAL BUDGET.

A memo from Finance Director Steele explained the Final Budget in its draft form was provided in the Council packet. There were some possible changes discussed in the last meeting which, if action is taken tonight may affect the final numbers and verbiage in the budget message.

The following were the items discussed during the last meeting:

A) During the public hearing on the tentative budget, a question was raised as to whether there will be salary adjustments during FY 2014 beyond the three percent (3%) one-time payment. Below is the motion made at the budget retreat dealing with this item:

“Ms. Spendlove noted Council Member Bailey moved to authorize Mr. Chandler to proceed with salary adjustments as were outlined in the budget presentation. Council Member Bigler seconded

the motion. She stated Mr. Chandler clarified that staff is being directed to proceed with further analysis of the data provided by the Employee Compensation Committee; provide a three percent, one-time pay increase in the current fiscal year, payable by June 30, contingent on the City's ability to provide that expense based on decisions made relative to potential outsourcing of park maintenance services.

Council Member Bailey stated one additional clarification is that the Council will be willing to reopen the 2013-2014 budget upon receiving a final recommendation from staff.

Voting on the motion:

Council Member Bailey aye

Council Member Bigler aye

Council Member Stoker aye

Council Member Taylor no

The motion passed on a three to one vote. "

There are several options in dealing with this item in the budget message:

- 1) Leave the budget message as was presented in the revised tentative budget 2
- 2) Some variation of the sentence.
- 3) Strike the sentence entirely from the budget message.

B) Council wanted some figures of what it would take to fund depreciation in the sewer fund to a certain level. As presented in the budget right now the depreciation funding percentages in the enterprise funds are as follows:

- a. Water Fund – Depreciation covered 67%
- b. Sewer Fund – Depreciation covered 0%
- c. Storm Water Fund – Depreciation covered 50%
- d. Solid Waste Fund – Depreciation covered 100%

As a review the following rate proposals are factored into the budget currently:

Water - \$0.49

Sewer - \$2.58

Storm Water - \$0.26

Total increase of \$3.33

If council wants to bring the sewer fund up to funding depreciation at the same level as the storm water fund (50%) the rates would then become:

Water - \$0.49

Sewer - \$3.94 (an additional increase of \$1.36)

Storm Water - \$0.26

Total increase of \$4.69

To bring the sewer and storm water funds up to funding depreciation at the same level as the water fund (67%) the rates would then become:

Water - \$0.49

Sewer - \$4.40 (an additional increase of \$1.82 from the current proposed increase). 3

Storm Water - \$0.98 (an additional increase of \$0.72 from the current proposed increase).

Total increase of \$5.87 (an additional increase of \$2.54 from the current proposed increase)

To bring the Water, Sewer and Storm Water funds to a 75% rate of funding depreciation, the rates would have to be:

Water - \$1.18 (an additional increase of \$0.69 from the current proposed increase)

Sewer - \$4.63 (an additional increase of \$2.05 from the current proposed increase)

Storm Water – \$1.30 (an additional increase of \$1.04 from the current proposed increase)
Total increase of \$7.11 (an additional \$3.78 from the current proposed increase)

To bring all funds up to funding depreciation 100% the rates would have to be:

Water – \$3.24 (an additional increase of \$2.75 from the current proposed increase)

Sewer - \$5.31 (an additional increase of \$2.73 from the current proposed increase)

Storm Water - \$2.34 (an additional increase of \$2.08 from the current proposed increase)

The total increase for funding depreciation 100% would be \$10.89 per month for a resident using 6,000 gallons of water and with 1 garbage can and recycle can.

C) The third item discussed was the addition of the Mechanic II position in the Motor Pool fund. This is replacing a part-time Mechanic position of an employee who retired at the end of May. Staff's proposal is to leave the budget as is, but leave the position open and not fill it until further analysis can be done to see if there are some services which would be more beneficial to be contracted out, thereby eliminating the need to hire an additional mechanic.

D) Bryan Steele added in a sheet showing the unrestricted fund balances/cash for the City's different funds. They are up to date to include the money being spent/reserved for the Public Works facility and corresponding land purchase.

Mayor Harris noted that Mr. Steele's memo highlights a number of issues for Council discussion and he recommended the Council discuss and review those items and vote upon each item individually. He stated that once the City budget has been agreed upon, he will recess the Council meeting and convene an RDA meeting to take care of the RDA budget; the RDA meeting can then be adjourned and the Council meeting can reconvene for the Council to take action on the ordinance regarding the budget for both the City and the RDA.

Mr. Steele then reviewed his staff memo, explaining that it includes information about the items that were discussed in the public hearing held May 28, 2013 regarding the tentative budget.

Council Member Bailey asked which sentence in the budget message could potentially be amended relative to employee compensation. Mr. Steele stated the budget message states that the budget will be amended during the fiscal year to make any necessary adjustments; that sentence was included in the revised tentative budget, but the original tentative budget stated the City would wait until the 2014-2015 budget to put additional employee compensation increases into effect. He stated staff reviewed the minutes of the budget retreat and found the motion was that the Council would consider opening the budget during the coming fiscal year to increase funding for employee compensation.

Council Member Bigler stated that motion was made before "the game changed" due to a payout. Council Member Bailey stated that is not necessarily the case in his opinion; he saw the issues as two separate issues. He stated he felt the three percent pay increase would be a one-time payment for employees to compensate for the last several years, but it would not continue into the future. Council Member Bigler stated he specifically asked if the three percent increase would continue into the future. Council Member Bailey stated that he did not see the three percent payment at the end of the fiscal year as exclusive and it would not automatically preclude the City from approving additional pay increases upon receiving the final results of the employee compensation committee's recommendation.

Mayor Harris stated the Council has the ability to word the budget message any way they would like to at this time. Council Member Bigler stated that the Council can change the budget message now, but he voted the way he did in the budget retreat based upon what was said at that point in time. He stated the \$90,000 budget surplus was available in the current budget year to provide for a three percent one-time

payment for the employees, but it was not retroactive. He stated his concern was whether the employees would be double dipping and he asked if the money should be given to the employees in 12 monthly payments so that the employees would not forget they got the cash lump sum and come back to the City and ask for more money. He stated he voted according to the statement by Mr. Chandler that the employees wanted the lump sum instead of having the three percent cash payout divided into payments over time because they did not want to get used to a pay raise. He stated that his concern was that the employees would forget about the three percent cash payment they received and they would come back and want more. He stated that in the budget year 2014-2015, or 12 months from now, if staff is doing their due diligence and homework, the Council can look at the issue again. He stated that right now he is opposed to giving \$90,000 for a cash payout and then approving another three percent increase in the coming fiscal year. He reiterated that he voted the way he did under the stipulation that the money would cover all raises for the next 12 months and raises would not be considered again until the 2014-2015 fiscal year. He stated the difference was not changed until the amendment.

Council Member Taylor stated that when this item was raised there was a lot of discussion about it and one of the concerns he expressed after Council Member Bailey made his motion to approve the three percent one-time payment for employees was that he felt that if the City did not revisit the issue of salaries in the 2013-2014 fiscal year, the Council is essentially ignoring the study that was commissioned and many of the employees are underpaid far below three percent. He stated that Council Member Bailey adjusted his motion according to the minutes of the meeting and he clarified the Council would be willing to reopen the 2013-2014 budget upon receiving a final recommendation from staff. He stated that motion was voted upon and he thinks it is very clear the budget could be opened in 2013-2014 as that was the last statement made before a vote was taken. He stated he thinks the City should reopen the budget when the additional information is available. He stated many employees are earning double digits less than the market average for pay for their position according to the employee compensation report. He stated that approving an across the board, one-time three percent increase and then not looking at compensation again for a year and a half does not make a lot of sense to him. Council Member Bigler stated that is what Mr. Chandler said. Council Member Taylor stated the Council left the issue open in the motion for the purposes of providing flexibility.

Council Member Bailey stated he thinks that at this point in time all the Council is stipulating is that they are willing to look at the budget and they are potentially willing to re-open the budget upon receiving a final recommendation from staff. He stated he is not saying that the Council is agreeing to re-open the budget or to implement anything specific so he does not have any grief with leaving the statement as it currently reads in the budget message because it is not binding on the Council in any way other than that the Council would like to receive additional information from staff. He stated Mr. Chandler is not present this evening, but in his initial proposal he seemed to be indicating that staff may be ready with some additional information, but he did not remember the time frame for that to take place. Mr. Steele stated he believed Mr. Chandler committed to providing additional information within six months, so that would be in October of 2013. Council Member Bailey stated that would be in the 2013-2014 budget year and that was the provision he was referring to in his amended motion.

Council Member Bigler asked if the Council is talking about opening the budget specifically to approve more money for salary increases. He stated that the Council changes the budget for a lot of things, but he asked if this is specifically for that. Mayor Harris stated this motion would allow that to happen. Council Member Bailey agreed. Council Member Fawson stated the motion would not commit the Council to approving increases in the coming fiscal year; the Council is simply saying they want to see the results of the employee compensation committee's study and analyze them and make a good decision and this motion would allow the Council to do that at some time in the coming fiscal year.

Mayor Harris stated that he thinks the City needs to get going on analyzing the salary ranges for employment positions in the City based on not just the market shortfalls identified by the committee, but also on other factors, such as experience. He stated he would hate to wait too long to get into that; if the ranges are adjusted the way they should be the Council would have all the latitude to implement the wage scale any way they see fit.

Council Member Bigler inquired as to when Mr. Chandler suggested the lump sum three percent payment for employees. Mr. Steele stated it was during the April 16, 2013 budget meeting.

Council Member Taylor stated that he thinks it is important to preserve the language in the budget message to show the staff that the Council is taking seriously the report they received from the employee compensation committee and that it is not being put on the back shelf for another entire budget year. He stated that the Council will take the time to assess and analyze the information provided by the committee and be open to re-opening the budget as it is determined necessary.

Council Member Taylor moved to keep the language in the budget message regarding the potential to re-open the 2013-2014 budget for the purposes of salary review. Council Member Bailey seconded the motion.

Council Member Bigler stated the language was not that specific. Council Member Taylor stated he does not have the statement in front of him and he asked Mr. Steele to read it again. Mr. Steele stated the budget message states the budget will be amended during the fiscal year to make any necessary salary adjustments. Council Member Bigler stated the minutes state that Council Member Bailey amended his motion to state that the Council would be willing to re-open the 2013 budget upon receiving a final recommendation from staff. He stated he is fine with that language, but when the Council gets to that point he will hold the Administration to what they said and told him in the meeting when the Council approved the expenditure of \$90,000 for one-time cash payments to the employees. Mayor Harris stated what the Council is deciding is different from that; they are deciding another way to go. Council Member Bigler stated they are deciding that perhaps additional money will be given. Council Member Bailey stated that discussion can take place at a later point. Council Member Bigler stated that is what he said; the discussion can take place, but if it comes down to the Administration wanting to give the employees more before a 12 month period has lapsed, that is when he will need to hold the Administration to what they said. Council Member Bailey stated it will become a vote of the Council. Mayor Harris agreed and stated it is a Council decision. Council Member Bigler stated he understands that.

Mayor Harris asked Council Member Taylor to restate his motion.

Council Member Taylor moved to keep the language in the amended budget statement as read by Mr. Steele. Council Member Bailey seconded the motion.

Council Member Bigler asked Mr. Steele to read the language since it is referenced in Council Member Taylor's motion. Mr. Steele stated the budget statement reads that the budget will be amended during the fiscal year to make any necessary salary adjustments. Council Member Bigler asked if the statement uses the words "will be" or "may be". Mr. Steele stated the statement uses the words "will be". Council Member Bigler asked if that means the budget will be opened without another Council vote; he stated that is what it sounds like to him. Mayor Harris stated the Council decides what happens when the budget is opened.

Council Member Stoker asked if the budget would be opened simply for discussion purposes.

Council Member Bailey asked that the language in the budget message be made clearer and in line with the language that is in the minutes from the budget retreat.

Council Member Bailey moved to amend the motion to direct that the language in the budget message be changed to indicate “the Council may re-open the 2013-2014 budget upon receiving final salary recommendations from staff”.

Council Member Bailey stated the current language states the Council will re-open the budget, but it does not refer specifically to the salary compensation study or the fact that the staff will make additional recommendations.

Council Member Taylor seconded Council Member Bailey’s amended motion.

Council Member Bigler thanked Council Member Bailey for his amended motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

Mr. Steele stated the second item included in his staff report deals with depreciation in the City’s utility funds and he reviewed the information included in his report. He referred the Council to the table on page four of the documentation and stated it is the clearest description of the potential ways to adjust the City’s utility rates to deal with depreciation costs.

Council Member Bailey stated that he would like to propose that the Council opt for the proposal to increase revenue to cover 50 percent of depreciation costs and phase-in increasing sewer rates to greater levels as the City finds that is sustainable with the City’s income. He stated he does not want to see too much of a rate increase at this time, but he does not want to do nothing.

Mayor Harris asked if Council Member Bailey is suggesting implementing the proposal included in the first column of the table, to which Council Member Bailey answered yes. He stated in the proposed budget there is no stipulation for funding depreciation of the sewer system and column one in the bottom table recommends funding 50 percent of depreciation costs of the sewer system in the next fiscal year and the other utility rates would remain the same at 67 percent for water and 50 percent for storm sewer.

Council Member Fawson asked Council Member Bailey if he is recommending column four titled “at least 50 percent”. Council Member Bailey answered yes and stated the bottom line is a total increase in all utility rates of \$4.69 per month. He stated it makes no sense at all for the City to be operating enterprise funds without them paying all costs associated with the enterprises. He stated, however, that he does not think it would be wise to double the rates and make up the shortfall all in one year.

Council Member Bailey moved to increase the depreciation rate recapture on the sewer fund to at least 50 percent as specified in column one of the table included in the staff report; the total utility rate increase would be \$4.69 per month. Council Member Fawson seconded the motion.

Council Member Bigler asked if that is a flat cost for every resident. He asked if every resident, regardless of the size of their home, would pay the same amount. Mr. Steele stated the rate is based upon usage of 6,000 gallons of water. Council Member Bigler stated that causes him concern because usage can change rates dramatically for families. Mayor Harris stated their charges are based on how much water they use, though the sewer, storm water, and garbage rates would remain constant. He stated the water rate is the only variable utility rate. Council Member Bailey stated the water rate would only increase by \$0.49 for 6,000 gallons according to the proposed budget.

Council Member Fawson asked Council Member Bailey if he is proposing any change to the water rates. Council Member Bailey stated he is not proposing any change other than what is recommended.

Council Member Bigler asked if the City has used the funds for any other purposes in the last few years. Mr. Steele stated the funds have been dedicated to the Public Works building project. Mayor Harris stated that is a bonafide use for enterprise funds. He stated the City has borrowed from the enterprise funds from time to time to do things like purchase property for the North Ogden Park, but those loans have all been repaid. Mr. Steele stated that by law, all of those types of loans must be paid back. Council Member Bigler stated that may be the law, but it does not say the loans must be paid within a certain amount of time. He asked if the funds are debt free, to which Mr. Steele answered yes. Council Member Bigler stated it was important for him to understand that money from the funds have not been used for other reasons in order for him to vote for the proposal. He asked if there is truly a shortfall in the funds as they are being used for their intended purposes. Mr. Steele answered yes. Mayor Harris stated it is important to realize that all capital investments associated with the utilities are charged to the enterprise funds as well. He stated the money is not being used to pay for things like parks, for example. Council Member Bigler asked if the City can put extra money from other places into the enterprise funds. He stated that at the end of the budget year the City had \$90,000 extra and he asked if it would have been possible to dedicate that money to the enterprise funds. Council Member Bailey asked if the \$90,000 was general fund money, to which Mayor Harris answered yes. Council Member Bailey stated the City would not put general fund money into the enterprise funds. Council Member Bigler stated he was asking if that is allowed. He stated that if the general fund reserve exceeds 18 percent, that excess can be used for capital projects. Council Member Fawson stated the reserve ceiling has been increased to 25 percent. Mayor Harris stated there are many capital investments charged to the general fund, such as street projects. Council Member Bigler stated he understands that and asked if it is possible to dedicate general fund monies to the enterprise funds for capital projects. Council Member Bailey stated he did not think that was legal. He stated enterprise funds have their own capital projects that are separate from the general fund capital projects. Council Member Bigler stated staff just communicated that some of the enterprise fund money has been used for the Public Works facility. Council Member Bailey explained the Public Works facility is partially general fund and partially enterprise fund. Mayor Harris stated that Council Member Bigler's question is whether enterprise funds can be supplemented with general funds. Mr. Steele stated he believed that is allowed, but he is not positive. Council Member Bigler stated that he is pretty sure that has been done since he has been a Council Member.

Council Member Bailey inquired as to how the depreciation of the sewer assets is calculated. He stated most of the assets were put in place by developers as the City was developed and he asked how those assets are valued in order to determine depreciation costs. Mr. Steele stated that during the year he receives costs from developers and those are logged; the assets are depreciated over their useful life. He stated the City's financial tool includes an asset management module that assists him in calculating depreciation costs.

Council Member Taylor asked if the depreciation funding can be earmarked for capital projects. He stated the reason he asks that question is that in this year there were large reserve amounts in the utility funds and a lot of that money was used for the Public Works facility project rather than being used for

things the fees were originally collected for. He stated that he wondered if a future Council could find another good use for the funds that have been collected for depreciation and he asked if there is any mechanism to require how the revenues should be used. He asked if the money collected sits in a reserve fund or if it goes into a fund specifically dedicated to capital projects. Mr. Steele stated that the money would become part of the fund balance for each fund and it can be used for capital projects. Council Member Bigler inquired as to the name of the fund. Mr. Steele stated it is the enterprise fund associated with each utility. Council Member Bigler stated that in the past when Council Member Fawson raised this issue he asked if the City could establish a fund for this. He stated that a sitting City Council cannot tie the hands of a future Council, but he asked if it would be possible to create a specific fund for future capital projects so that there is no question as to what the revenue was to be used for. He stated the answer he received was yes and he asked again if the money can be earmarked in its own fund for future capital projects. He stated that he does not want future Council's to use the money for something else and then 10 years from now ask for a \$10 million bond. He stated this Council is planning ahead and the money should be clearly marked. Mayor Harris stated that the City has various utility funds and the sewer fund, for example, has money that must be used for sewer projects. He stated there is also a long list of capital investments that are needed; any future Council can change the list of projects, but they cannot use the money for something else. He stated the money will either stay in the fund or be spent on something related to the sewer system. Council Member Bigler asked if the Council can separate what the City is collecting now from the revenues that will be collected once the fee increase is implemented and specify that extra money will be used specifically for depreciation. He stated that would provide a way to measure and monitor how much the City is collecting and how much is being dedicated to depreciation projects in each fiscal year versus what the City is using each year. Mr. Steele stated the City has a capital improvement plan and that plan maps out how much is needed in order to complete capital projects and the City must have enough funding in reserve to pay for those projects. Mayor Harris added that the definition of depreciation is to put money away to fund future projects. Mr. Steele stated that is correct.

Council Member Taylor stated the point he was trying to make was that the money used for the Public Works facility project was likely collected for depreciation and it was used for another purpose and he is wondering if there is a way to implement a practice that will help to avoid that happening again in the future. He stated he would like to dedicate the funds collected for depreciation for that purpose, but it sounds like there may not be a way to do that. Council Member Bigler asked if the City can create a fund titled depreciation so that the extra money being collected is dedicated to depreciation.

Council Member Bailey stated depreciation is an expense shown on an income statement and the City would have on a balance sheet account accumulated depreciation and he assumed that would be booked somewhere else, like in a line called capital improvements or provisions for capital improvements. He stated that is basically doing what Council Member Bigler is asking for. Mayor Harris stated he does not see where the concern is; the City has a five year capital improvement plan and even a draft 10 year plan and the list of projects in those plans exceeds what is available through utility fee funding. He stated that as those projects come up the City will fund them if funding is available. He stated the funds will be used for needed capital investments or reinvestments.

Council Member Bailey stated that he is having second thoughts about his proposal; he has a concern about the increase that will be imposed on the citizens. He stated the total increase would be \$4.69 and \$3.94 of that increase would be funding depreciation in the sewer fund and maybe a 50 percent increase is a little too much. He asked if the Council would rather start with a more modest increase that could be adjusted over the next three or four years.

Mayor Harris stated there is a motion on the table and it can be amended, but he asked for clarification of the information included in the table in the staff report. He asked if the \$3.33 which is currently in the

proposed budget includes any depreciation funding. Mr. Steele stated it provides some depreciation for the sewer fund. Council Member Bailey stated the amount was being increased from \$2.58 to \$3.94, which would fund 50 percent of the depreciation costs. He stated that addresses his concern and he is comfortable with his motion.

Council Member Bigler asked the total increase per household per month. Mr. Steele stated it is \$4.69.

Council Member Taylor asked if the Council is making a final decision tonight or if there is some sort of public process required. Mayor Harris stated the Council held a public hearing a couple of weeks ago and the Council is considering adopting a final budget tonight. Council Member Bailey asked if the fees must be addressed in the consolidated fee schedule before the fees can go into effect. Mr. Steele answered yes. Council Member Bailey stated that if the utility rates in the consolidated fee schedule are not approved by the Council, it will be necessary to reopen the budget to amend the utility funds.

Mayor Harris reiterated there has been a motion and second regarding the utility rates and he called for a vote.

Council Member Bigler stated Mr. Steele has been excellent with what he has done for the City and he asked Mr. Steele if he thinks this is the minimum amount that can be passed and still allow the City to get by. He stated this is the lowest proposal made by staff and he asked if it is Mr. Steele's opinion that this is the lowest amount that can be passed and still allow the City to get by. Mr. Steele stated the lowest amount was actually the \$3.33 increase that was proposed. Council Member Bigler stated he thought Council Member Bailey was suggesting starting with the lowest proposal and then gradually increase over the next couple of years. Mayor Harris stated the lowest proposal was \$3.33 and that included no funding for depreciation. Council Member Bigler asked if the \$4.69 is the lowest rate increase proposal that funds some depreciation. Mr. Steele answered yes.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

Mr. Steele then stated the next item included in his staff report deals with the proposal to add a mechanic II position in the motor pool fund to replace a part-time mechanic that retired at the end of May. He reviewed the information provided in his report.

Council Member Bigler stated that the Council changed the budget during the last meeting to take the funding for the position out of the budget. Mr. Steele stated that was not voted upon. Council Member Bigler stated that he asked the Council at that time if they had any concerns with it and he thought it was decided. He stated he thought a lot of things have been taken out.

Council Member Bigler moved to remove funding for a third full-time mechanic position from the budget. Council Member Fawson seconded the motion.

Council Member Bailey asked how much work it will cause Mr. Steele to recalculate the budget upon removing the funding for that position. Mr. Steele stated that it will not be too much work.

Council Member Fawson stated that if staff determines the position is needed the Council will have the ability to re-open the budget to add it.

Council Member Taylor stated he did not feel this was a huge issue because adding the funding to the budget does not mean that the hiring of the position is set in stone. He added, however, that he personally feels that the staff recommendation is valid and the City had the position until the individual that previously filled it retired. He stated he would be comfortable leaving the funding in the budget to provide for filling the position if it is determined that it is necessary. Council Member Bigler stated that the position was part-time with no benefits and the staff recommendation is to create a third full-time mechanic position with benefits. Mayor Harris stated staff would need to justify their reasons for wanting that position. Council Member Bigler stated he said that in the last meeting as did Council Member Fawson. He stated that each year the Council makes several adjustments to the budget and it would not be impossible to add funding for the position at a later date. Council Member Fawson stated he feels more comfortable reviewing the analysis once it is done and if the analysis warrants the creation of the position he would be comfortable opening the budget.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	nay

The motion passed on a four to one vote.

Mr. Steele stated that he has included a final page in the proposed budget that highlights the fund balances of each fund based on what is budgeted this year. Mayor Harris stated he believed that was requested by the Council. Council Member Bailey asked if that page is included in the ordinance or just in the budget document. Mr. Steele stated it is just included in the final budget. Council Member Taylor asked that the page be provided on the screen for everyone to view and Council Member Bailey asked that a copy of the page also be emailed to each member of the Council.

Mayor Harris asked if the Council has additional discussion points regarding the budget. Council Member Bigler stated that throughout the budget preparation process there was discussion about projects to locate Wi-Fi at the Aquatic Center and to remodel City Hall and he asked if those projects have been removed from the final budget. Mr. Steele answered yes.

MAYOR HARRIS RECESSED THE COUNCIL MEETING AND CONVENED THE RDA MEETING AT 10:19 P.M.

RDA 1. DISCUSSION AND/OR ACTION TO CONSIDER AN ORDINANCE ADOPTING FISCAL YEAR 2013-2014 FINAL BUDGET

Mr. Steele stated there are no changes to the RDA budget and he explained the budget highlights money the City will receive from the RDA area and most of the money is spent on the bond payment for the Aquatic Center and any extra money is dedicated to a reserve fund that can be used for future redevelopment projects.

Board Member Bailey asked if there is a financial statement for the RDA or if it will be included in the final budget. Mr. Steele stated it will be part of the final budget.

RDA 2. ADJOURNMENT.

Board Member Fawson moved to adjourn the meeting. Board Member Bailey seconded the motion.

Voting on the motion:

**Board Member Bigler aye
Board Member Bailey aye
Board Member Fawson aye
Board Member Stoker aye
Board Member Taylor aye**

The motion passed unanimously.

The meeting adjourned at 10:23 p.m.

MAYOR HARRIS RECONVENED THE CITY COUNCIL MEETING AT 10:23 P.M.

Mayor Harris stated he will entertain a motion to adopt the final 2013-2014 budget.

Council Member Fawson moved to adopt ordinance 2013-08 adopting the final 2013-2014 fiscal year budget. Council Member Taylor seconded the motion.

Voting on the motion:

**Board Member Bigler aye
Board Member Bailey aye
Board Member Fawson aye
Board Member Stoker aye
Board Member Taylor aye**

The motion passed unanimously.

7. DISCUSSION AND/OR ACTION TO CONSIDER APPROVING POLLING LOCATION FOR THE PRIMARY ELECTION TO BE HELD ON AUGUST 13, 2013.

A staff memo from City Recorder Spendlove explained Utah Code require the election officer to designate polling places for election's and obtain the approval of the municipal legislative body. Approval must be obtained prior to Election Day. I would like to use the following (3) locations for the Primary Election to be held August 13, 2013 and General Election to be held: North View Senior Center located at 485 East 2550 North, North Ogden, North Ogden City Offices located at 505 East 2600 North, North Ogden, and the LDS Meeting House located at 3550 North 700 East, North Ogden.

Mayor Harris asked Ms. Spendlove to explain the process that is used to determine the polling locations. Ms. Spendlove stated she is the election officer for the City, but the City contracts with Weber County for the conduction of City elections. She stated they have requested the use of these facilities, which are vote centers, which means that if someone arrives at a polling location, but it is not their voting location they will still be allowed to vote rather than being required to drive to the correct location.

Council Member Bigler asked why a polling location will be located at an LDS meeting house on 3550 North rather than at the library. Ms. Spendlove stated that the library does not have enough room; she noted that precincts in this area have been consolidated in order to allow the City to use fewer judges and lower the overall election costs, but the library would not accommodate the number of voters associated with the consolidation of those precincts. She stated that polling locations are also not being located at schools due to the concern with security. Council Member Bigler asked if it costs more on judges to have the polling at one location versus another and he pointed out the library has been used as a polling site in the past. He stated his concern is that there may be some people that think that using the church on 3550 North would be catering to some candidates because that is where they go to church. Ms. Spendlove stated that she did not select the polling locations and she reiterated Weber County selected them. Council Member Bigler asked why the library is not being used. Ms. Spendlove stated that the library is not big enough to accommodate the amount of voters associated with the consolidated precincts. She stated that five precincts will go to the senior center, four precincts will come to City Hall, and four precincts will vote at the church. She stated the library could only accommodate two precincts. She stated that in the past she has used the senior center, City Hall, and upstairs and downstairs at the library, and at the Police Department. She stated that required her to hire and pay more judges. She reiterated these are voting centers and the polling locations in the past were not voting centers. Council Member Bigler stated that in the past people voted at the senior center, City Hall, and the library. Ms. Spendlove added people also voted at the Police Department last time she conducted the election, which was two years ago. Council Member Bigler stated he would much rather have voters vote at the City complex rather than picking one church over another. Ms. Spendlove stated that during the last County election they used a church on Elberta Drive and they received complaints from voters that would have liked to have an option to vote somewhere further to the north. She stated this church addresses that complaint. Council Member Bigler stated that he does not think the City will receive any complaints about “home cooking” in the election if all voting is done at the City offices. Ms. Spendlove stated there is not room for all voting to be done at the City offices. Council Member Bigler stated it has been done in the past. Ms. Spendlove stated that is the case, but the Weber County library does not have room and it will not accommodate the consolidated precincts. She stated the senior center and City Hall can handle the consolidated precincts assigned to them, but the County asked that voting not be conducted at the library. Council Member Bigler stated it seems that the selection of the polling locations is much more accommodating to one certain group of people over another and he thinks the City should stay away from that. Ms. Spendlove asked Council Member Bigler to offer her a suggestion. Council Member Bigler stated he did offer a suggestion. Ms. Spendlove asked for specific suggestions and she stated she cannot use the library and she cannot use the basement of City Hall. Council Member Bigler asked if the library has refused to let the City conduct voting there even though it has been used many times in the past. Ms. Spendlove answered yes and she added that Weber County did not use the library as a polling location in their last election.

Council Member Fawson asked if there is four times the amount of room available at the senior center in comparison to what is actually being used for the election. Ms. Spendlove stated that she asked for access to the entire senior center on Election Day and she was only given permission to use half of the center; they will not close down for her to use the entire center. Council Member Bigler asked who said that. Ms. Spendlove stated she worked with the director of the center; she was pushing for the entire facility, but they will not shut down.

Council Member Bailey clarified that the suggestion to use an LDS chapel did not come from Ms. Spendlove and, instead, it came from Weber County. Ms. Spendlove stated that is correct and she noted they used the chapels in their last election as well as well as churches of other faiths throughout the Ogden area. She stated there are concerns with holding elections in schools due to security and recent school shootings. She reiterated the County used the church in Elberta Drive in the presidential election and their reasoning for using the churches is that they are very accommodating to senior citizens because all voting is done on one level and there is sufficient parking. She stated the County also already has approval to use the LDS churches in the City. Council Member Bigler suggested moving the polling location to the church on 1700 North. Ms. Spendlove stated that she can do that, but she asked about the church on 3100 North. She stated she is trying to make sure the locations are spread evenly through the City. Council Member Bigler stated the current proposal is not even and he added that the church on 3550 North is in a neighborhood where certain individuals live. He stated he and the other Mayoral candidate live in another area of town and this does not impact them.

Council Member Taylor stated that he feels the locations were selected by Weber County and not a City employee and he stated the locations have been used in the past. Ms. Spendlove stated the church on 3550 North was not used in the past and, instead, the County used the church on Elberta Drive in that area. Mayor Harris stated there was more than one LDS chapel used in the City in the presidential election. Council Member Taylor stated he would personally rather see that the locations are selected by someone from outside of the City and he is comfortable moving forward. He stated that he lives furthest away from the polling locations and he is comfortable that an outside party selected the locations and he has confidence in that. Council Member Bigler stated the Council does not know that the County did not get any help in selecting the locations. Ms. Spendlove stated that she did not give the County any suggestions. Council Member Bigler asked that the church on 1700 North be used if it does not matter. Ms. Spendlove stated she can do that. Council Member Bigler stated the people living in the north can vote at City Hall and people living in the south can vote at the church on 1700 North. Ms. Spendlove stated that she can do that. Council Member Bigler stated he can get approval to use the church on 1700 North tomorrow. Ms. Spendlove stated that the County must follow the proper channels to get approval. She then added that this action needs to be finalized so the County can move forward with the administration of the election.

Council Member Fawson stated the City has used centralized locations in the past in the senior center, City Hall, and the library and he would suggest that the polling locations continue to be centrally located. He stated he wondered if it would be possible to use the church on 2600 North, which is located close to the City Hall complex, in order to keep all polling locations centrally located. He stated that would not give the appearance of catering to any candidates. Council Member Bailey stated that is a good suggestion. Ms. Spendlove stated she will make that suggestion to the County. She stated that she does need a motion.

Mayor Harris stated everyone needs to understand these centers are voting centers and anyone living in Weber County can vote at the voting centers in North Ogden. He stated that is why the buildings need to be able to accommodate more voters; precincts have been consolidated to save the City money in funding the election. He stated three large facilities are needed. Ms. Spendlove stated that is correct and she noted that each center needs to be larger enough to handle at least four precincts; the senior center will accommodate five precincts and the other two centers need to handle four precincts each.

Council Member Fawson asked if the Council is simply being asked to make a recommendation that the County consider using the church on 2600 North rather than the church on 3550 North. Mayor Harris answered yes and stated the County will need to agree to that recommendation and negotiate for the use of the church on 2600 North. Council Member Fawson asked if the County will respond to the City's request and update the Council regarding which locations will actually be used. Ms. Spendlove answered

yes. Council Member Fawson stated that instead of making a motion to approve the locations he would make a recommendation that the polling locations be changed and that the requested change be approved by the County and the LDS church and then by the Council. Ms. Spendlove requested that the Council make the change to the polling locations and vote to approve it so that she can begin to work with the County as soon as possible.

Council Member Bigler stated that he wants to avoid any appearance to the residents that anybody is receiving preferential treatment and that is why he raised this issue. He stated perception matters a lot, especially when there is an election and some people really care about their candidate. He stated that he and Council Member Taylor both live in areas of the City that are far from the church on 3550 North, but a lot of the candidates for Council are in completely different parts of the City. He stated the centralized location would help the City avoid a can of worms and keep people from complaining.

Mayor Harris stated the Council needs to make a decision tonight so the County can begin working on things like printing the ballots for the election.

Council Member Fawson moved to approve the use of the North View Senior Center, North Ogden City Offices, and the LDS Meeting House in the vicinity of 2600 North and 550 East for polling locations for the primary election. Council Member Bigler seconded the motion.

Council Member Taylor stated he is comfortable opting for the church on 2600 North rather than the church on 3550 North, but he wanted to say that he thinks the insinuations that someone from the City may have helped the County select the polling places are very unfortunate and he wanted to say that he supports the impartiality of the City staff in handling these types of issue. He stated that kind of accusation really, in his mind, are not appropriate. He reiterated the addresses of the polling locations do not matter him and he is comfortable moving the location to avoid the potential for any impropriety, but it is not a sign that he thinks there is a lack of impartiality by the City staff.

Council Member Bigler stated he needs to address that because it is a talking point for the newspaper and will probably get in there. He stated he was not speaking on behalf of himself; he is saying there are a lot of passionate people behind different candidates and if the City can avoid that perception by the resident, that was what he was trying to do. He stated some residents may think and feel that regardless of what the Council says and if the Council can fix the problem. . .the proposal to use the church on 2600 North does that because all three polling locations will be located in the same area. He stated he was trying to avoid a can of worms being opened by the perception of residents, whether that perception is correct or not. He stated the polling locations are all central to the City and that will serve the City down the road so that staff does not have their phone ringing off the hook with accusations.

Mayor Harris asked Ms. Spendlove if she anticipated the County having any problems securing the church building on 2600 North. Ms. Spendlove stated she did not believe there would be any problems and all the County told her was that they needed to send a request to the church headquarters to get permission. Mayor Harris stated the County will need to begin working on that immediately. He stated time is of the essence and he stated it may be necessary to revisit this issue if the building on 2600 North is not available. Ms. Spendlove asked the Council if they had a second choice if the building on 2600 North is not available. Council Member Bigler stated his second choice would be the church on 2100 North; it is the next closest church house. Ms. Spendlove reminded the Council the County has used the church on Elberta Drive in the past. Council Member Taylor suggested the church on 3100 North so it is closer to the people living on the north. Ms. Spendlove asked about the church on Elberta Drive and 400 East; she stated it is close to the junior high as well.

Council Member Fawson amended his motion to include the church on 2100 North as an alternate polling location. Council Member Bigler seconded the motion.

Council Member Taylor stated that he feels that if the Council is trying to avoid the impropriety of putting them all in one location, the City starts at 1700 North, so all of the polling locations will be located in the south half of the City and the north half of the City has none. He stated the Council has gone from one extreme to the other, in his opinion, and he does not think that is a valid solution.

Council Member Fawson asked if the Council can have two weeks to consider this issue. Ms. Spendlove stated the County asked for a vote on the issue today; they would like to start printing voting materials to prepare for the primary election. Council Member Stoker suggested that the alternative polling location be the church near the junior high school. Council Member Bigler suggested that Ms. Spendlove see if the church on 2600 North is available and if it is not she should report back to the Council and further discussion can take place at that time.

Council Member Fawson withdrew his amended motion.

Mayor Harris called for a vote on the original motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

8. PUBLIC COMMENTS.

A resident, no name or address given, suggested that the Council hear public comments at the beginning of the meeting. Mayor Harris stated there is an opportunity for public comments at the beginning of the meeting and at the end and that is more than most cities allow during their meetings.

9. CITY COUNCIL, MAYOR, AND STAFF COMMENTS.

Council Member Bailey thanked Mr. Steele for his work on the budget and for making improvements to it every year.

Council Member Fawson congratulated the candidates for City Council and Mayor; he thanked them for their willingness to run and wished them well. He stated he also wanted to send his wishes for a speedy recovery to Chief Warren. He stated he hoped he would be able to come back to work soon. Mayor Harris stated Chief Warren is back to work; he talked to him today and he was going to see the doctor. He stated he is getting full movement back into his hands and fingers. He stated there are so many things that could have gone wrong in the event and he is happy the Chief is doing well. Council Member Fawson welcomed the Chief back to work.

Council Member Bigler stated he was also going to mention Chief Warren in his comments. He also thanked Mr. Steele for all his work on the budget; he has done an outstanding job and the budget had improved over the three years he has been on the Council. He thanked Mr. Steele for all he is done and stated he is very valuable to the City and is very good at what he does.

Council Member Stoker echoed all comments made by the other Council Members.

Mr. Steele thanked the Council and City staff for all their help with the budget; it is a collective effort.

Mayor Harris stated the agenda allows the Council to hold a closed meeting and he would like to hold a short closed meeting, no more than five minutes long, for the purpose of discussing the purchase of real property and he asked for a motion to that effect.

Council Member Bailey moved to enter into a closed meeting to for the purpose of discussing the purchase of real property pursuant to § Utah Code section 52-4-205. Council Member Stoker seconded the motion.

Voting on the motion:

Council Member Bailey	aye
Council Member Bigler	aye
Council Member Fawson	no
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed 4 to 1.

The City Council recessed at 10:37 p.m. and convened in a closed session.

The City Council reconvened in an open session at 10:47 p.m.

10. ADJOURNMENT.

Council Member Fawson moved to adjourn the meeting. Council Member Bailey seconded the motion.

Voting on the motion:

Council Member Bigler	aye
Council Member Bailey	aye
Council Member Fawson	aye
Council Member Stoker	aye
Council Member Taylor	aye

The motion passed unanimously.

The meeting adjourned at 10:47 p.m.

Richard G. Harris, Mayor

S. Annette Spendlove, MMC
City Recorder

Date Approved